



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Hill Aviation Logistics

File: B-228554

Date: February 11, 1988

DIGEST

Protester's assertion that it will manufacture an aircraft engine part according to the original equipment manufacturer's (OEM) technical drawings does not establish that the contracting agency's requirement for engine qualification testing before approval of a source is unreasonable where the part is critical to the safe and effective operation of the engine. Since the agency is unable to secure from the OEM technical expertise to establish qualification guidelines, and the OEM's testing facilities, protest of award to OEM without consideration of protester's offer is denied.

DECISION

Hill Aviation Logistics protests the award of a contract to General Electric Co. (GE) by the Department of the Air Force for 2,260 outer combustor shells for J85 aircraft engines. Hill submitted an unsolicited proposal to supply the part after learning that the Air Force had issued solicitation No. F41608-87-R-3906 to GE. Hill offers a lower price for the engine part than does GE, but has been denied approval as a source by the Air Force because Hill's parts have not undergone engine testing.

We deny the protest.

The Air Force issued the solicitation, on October 27, 1986, only to GE, since GE is the only qualified manufacturer. The solicitation had been synopsisized in the October 10, 1986, Commerce Business Daily, with a standard note explaining that other potential sources might be considered if the source submitted either: (1) evidence of having satisfactorily produced the required part for the government or the prime equipment manufacturer, or (2) engineering data sufficient to demonstrate the acceptability of the offered part. Hill submitted an offer on November 24, 1986, stating that it would supply a part similar to GE's, manufactured in accordance with GE's design, technical drawings, and manufacturing process. Hill later supplemented its offer with preliminary manufacturing process sheets and additional

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drawing sheets, and the Air Force then forwarded Hill's materials to the agency's Directorate of Material Management for evaluation.

In response to a previous attempt by another manufacturer to gain source approval, the Directorate of Material Management had concluded that source approval would require submission of a sample part and testing, and that only GE, the original equipment manufacturer, had the test facilities and technical expertise necessary to evaluate the part. Additionally, the history of the part was such that continual access to test facilities had been necessary to ensure adequate quality control and to rectify any problems associated with the part's manufacture and assembly. Because GE refuses to contract for its testing facilities and technical expertise for the purpose of facilitating source approval of a direct competitor, the cognizant Air Force engineers have been unable to offer testing, or to develop a statement of qualification requirements that a potential offeror or its product must meet in order to qualify as a source. In this respect, Federal Acquisition Regulation (FAR) § 9.202(a) (FAC 84-11) prescribes policies and procedures regarding qualification requirements, and requires, in part, that the contracting agency specify in writing and justify qualification requirements imposed, and provide potential offerors with an opportunity to demonstrate their ability to satisfy these requirements.

The Directorate reiterated the above-stated concerns and conclusions when requested to evaluate Hill's materials for source approval. Also, for these reasons, the Directorate requested and was granted a waiver from the development of a statement of qualification requirements pursuant to FAR § 9.202(b), stating that:

"[t]he simple truth is, that in this case, the government cannot comply with [FAR § 9.202(a)] because we do not have the technical expertise or facilities to do so, and we cannot contract for these services."

Hill argues that the Air Force's insistence that the J85 engine part, if supplied by Hill, be tested prior to source approval, and the Air Force's failure to develop and specify qualification requirements as provided by FAR § 9.202(a), improperly precluded Hill from qualifying as an alternate source of the part, and therefore from being awarded the contract. Hill further argues that testing should be a prerequisite to qualification only when an agency seeks to establish the credibility of an initial design concept or to assess modifications in material or dimensions. Hill contends that because it "would simply manufacture the part

according to the General Electric drawings," it is unnecessary to include testing in any qualification procedure.

Applicable regulations permit agencies to limit competition for the supply of parts necessary to assure the safe, dependable, and effective operation of government equipment. Department of Defense Federal Acquisition Regulation Supplement (DFARS) § 17.7203(a) (DAC 86-1). Because, as stated by the Air Force, "failure of [the J85 engine part] in service could result in catastrophic engine failure and fire, resulting in extreme hazard to personnel and aircraft," we see no reason to object to the Air Force's decision to acquire the part from approved sources only. Id.; see Electro-Methods, Inc., B-215841, Mar. 11, 1985, 85-1 CPD ¶ 293.

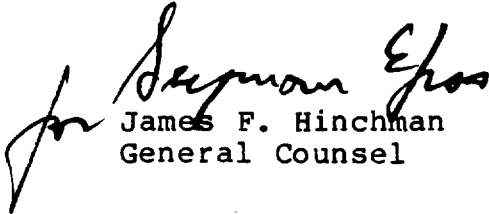
As to the need for testing, that generally is a matter within the competence of the procuring agency, so that we will not disturb the agency's position in that respect in the absence of clear evidence indicating the position is unreasonable. D Square Engineering Co., B-204998, Apr. 6, 1982, 82-1 CPD ¶ 316. Here, we have no reason to doubt the Air Force's assertion that because of the critical application of the part and the complexity of the part's manufacture, prequalification testing is essential. The history of the part, as established in the record, describes various problems dealing with subtle changes in the part's configuration during its manufacture. These problems, according to the Air Force, could "not be solved by dimensional measurement to drawing requirements," but required engine testing to correct. In these circumstances, Hill's assertion that it would simply manufacture the part according to GE drawings does not establish the unreasonableness of the Air Force's technical determination that prequalification testing is needed. See B.H. Aircraft Co., Inc., B-222565, et al., Aug. 4, 1986, 86-2 CPD ¶ 143.

Moreover, as stated previously, only GE has the necessary testing facilities and technical expertise to qualify as a source, and GE refuses to enter into a contract to provide these services. GE has stated that it does not believe it would be in its best interests to assist in source qualification of a direct competitor, and has expressed concern that such assistance, if rendered, could expose GE to potential legal actions. In addition, the record shows that the Air Force, upon realizing that competition would be limited in the procurement of this part, conducted a cost-analysis to determine if a competitive procurement an older version of the part would result in a net savings. The

analysis concluded that the savings in predicted purchase price would be outweighed by the increased maintenance costs of the older part; the Air Force, however, indicates that it hopes to find a way to provide for source qualification in the future.

In sum, we have no basis to dispute the fact that the Air Force lacks the requisite technical expertise and facilities to develop and specify qualification requirements and to provide testing. Since the record supports the reasonableness of the requirements for source approval and testing, we also see no legal basis to object to the contract award to GE.

The protest is denied.


James F. Hinchman
General Counsel