



**Comptroller General  
of the United States**

Washington, D.C. 20548

## Decision

**Matter of:** Amerigard Alarm & Security Corporation

**File:** B-261193

**Date:** August 25, 1995

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Richard H. Cantor for the protester.

Capt. Charmaine E. Betty-Singleton and Craig E. Hodge, Esq., Department of the Army, for the agency.

Linda S. Lebowitz, Esq., and John Van Schaik, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

Where statute requires federal family housing quarters to be protected by "hard-wired smoke detectors," contracting agency, consistent with the "plain meaning" of the statute, reasonably drafted its smoke detector requirement to allow the installation of hard-wired smoke detectors only.

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### DECISION

Amerigard Alarm & Security Corporation protests the terms of invitation for bids (IFB) No. DAAG60-95-B-0026, issued by the Department of the Army for smoke detectors to be installed at family housing quarters at the United States Military Academy, West Point, New York and at the Stewart Army Subpost, New Windsor, New York. The protester contends that the smoke detector specification is unduly restrictive.

We deny the protest.

The IFB requires the "removal of existing, battery-operated and hard-wired smoke detectors and installation of hard-wired smoke detectors to include wiring and appurtenances." The protester believes that the smoke detector specification, requiring the installation of hard-wired smoke detectors only, is unduly restrictive. To satisfy the Army's smoke detector requirement, the

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protester would propose to install wireless, battery-operated (i.e., battery-powered) smoke detectors with built-in, supervised radio transmitters.<sup>1</sup>

In support of its position, the protester refers to the definition of "smoke detectors" contained in the Fire Administration Authorization Act of 1992, 15 U.S.C. § 2227(a)(11) (1994). In this section, the term "smoke detectors" is defined as "single or multiple station, self-contained alarm devices designed to respond to the presence of visible or invisible particles of combustion, installed in accordance with the National Fire Protection Association [NFPA] Standard 74 or any successor standard thereto." The protester states that the applicable NFPA standard does not endorse one type of smoke detector over any other type of smoke detector. For this reason, the protester maintains that the NFPA standard recognizes the use of supervised, wireless, battery-operated smoke detectors, such as those it would propose to install, and therefore, this type of smoke detector, although it is not hard wired, should be permitted under the IFB.

However, the agency states that the protester's supervised, wireless, battery-operated smoke detectors are unacceptable since they do not satisfy the express terms of 15 U.S.C. § 2227(c)(1)(A) which states as follows:

"[N]o Federal funds may be used for the construction, purchase, lease, or operation by the Federal Government of housing in the United States for Federal employees or their dependents unless . . . the housing is protected, before occupancy by Federal employees or their dependents, by an automatic sprinkler system . . . and hard-wired smoke detectors."

The term "hard-wired smoke detectors" is not defined in the statute. Nevertheless, based on this statutory language, the agency maintains that battery-operated smoke detectors must be removed from federal family housing quarters and replaced with hard-wired smoke detectors in order for the Army to use federal funds to construct, purchase, lease, or operate these residential quarters. Moreover, the agency states that unless these residential quarters have hard-wired smoke detectors, federal employees and their dependents will not be able to live in such residential quarters. Therefore, the agency concludes

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<sup>1</sup>The descriptive literature furnished by the protester shows that its smoke detectors are powered by two 9-volt alkaline, commercially available batteries. As reflected in the descriptive literature, these batteries require replacement upon a low battery report and/or during annual cleaning.

that the protester's wireless, battery-operated smoke detectors are unacceptable, even though they are supervised.<sup>2</sup>

In determining the proper interpretation of a statute, we focus on the "plain meaning" of the statutory language. See American Eagle Indus., Inc.; Yellowhorse, Joint Venture, B-255251; B-255251.2, Feb. 22, 1994, 94-1 CPD ¶ 128. While the statutory definition of "smoke detectors" at 15 U.S.C. § 2227(a)(11) refers to an industry standard which does not explicitly recognize any particular type of smoke detector, the statutory language at 15 U.S.C. § 2227(c)(1)(A) expressly conditions the use of federal funds for the construction, purchase, lease, or operation of federal family housing quarters on the installation of "hard-wired smoke detectors" to protect such residential quarters.

More specifically, although the term "hard-wired smoke detectors" is not defined in the statute, the legislative history, including hearings prior to enactment of the statute, reflects that Congress considered the difference between hard-wired and battery-operated smoke detectors in terms of function, fire safety, and reliability. At a congressional hearing, witnesses explained that the power source for hard-wired smoke detectors is the primary electrical service for the building, while the power source for battery-operated smoke detectors is the battery itself. It was the view of several witnesses that hard-wired smoke detectors are more reliable than battery-operated smoke detectors because battery-operated smoke detectors require battery replacement, and if the building occupants fail to replace the batteries, the smoke detectors will not work. The witnesses acknowledged that when an electrical outage occurs, the hard-wired smoke detectors do not work, but concluded that this risk was statistically less than the risk associated with battery-operated smoke detectors not working because the batteries had not been replaced. The Federal Fire Safety Act of 1991, Hearing Before the Subcomm. on Science of the House Comm. on Science, Space, and Technology, 102nd Cong., 1st Sess. 101-103 (1991).

Thus, we believe Congress carefully considered the use of hard-wired versus battery-operated smoke detectors. By including the term "hard-wired" in the statute, Congress chose hard-wired smoke detectors over other types of smoke detectors, e.g., battery-operated smoke detectors. While the protester's supervised, wireless, battery-operated smoke detectors may be technically equivalent to hard-wired smoke detectors, we point out that its smoke detectors

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<sup>2</sup>While the protester states that it would install a "hard-wired system," it concedes that its smoke detectors, a component of this system, will be "battery-operated."

are nevertheless powered by batteries which require replacement, a matter which was specifically considered by Congress.

Therefore, we cannot conclude, based on the "plain meaning" of the statutory requirement for hard-wired smoke detectors, that the agency has improperly drafted its specification to require the installation of hard-wired smoke detectors only. Rather, we think the agency reasonably drafted its smoke detector requirement consistent with the statutory language.<sup>3</sup> Accordingly, we have no basis to determine that the smoke detector specification in the IFB is unduly restrictive.

The protest is denied.<sup>4</sup>

\s\ Ronald Berger  
for Robert P. Murphy  
General Counsel

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<sup>3</sup>We note that the legislative history reflects that Congress did not rule out the possibility of using hard-wired smoke detectors with battery backup as the optimum type of smoke detector.

<sup>4</sup>In response to the protest, the agency is taking corrective action on two other issues raised by the protester concerning other revisions to the specifications and a site visit.