

**DECISION**

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**THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548**

**FILE:** B-208307**DATE:** April 5, 1983**MATTER OF:** Scientific Industries, Inc.**DIGEST:**

Protest that experience requirements in a solicitation for hospital aseptic management services unduly restrict competition and exceed Government's actual needs is denied where protester has not shown that the contracting agency's belief that such experience is necessary to assure an acceptable level of cleaning in critical hospital areas is unreasonable.

Scientific Industries, Inc. protests as unduly restrictive certain experience requirements in request for proposals (RFP) No. F33600-82-R-0329, issued by Wright-Patterson Air Force Base for hospital aseptic management services (HAMS) at 14 facilities. We deny the protest.

The solicitation required that an offeror submit, as part of its technical proposal, a statement of experience in a HAMS program. The solicitation provided:

"1. Experience

"(A) \* \* \*

"(B) Offerors must have obtained experience in managing and performing a hospital aseptic management system (HAMS) program as described in the performance work statement entitled 'Hospital Aseptic Management System' dated January 1982. Offerors must have been regularly engaged in the business of providing aseptic services in the critical areas of: surgery (pre-schedule, post-case, and end-of-day cleaning), labor and delivery, newborn nursery and recovery. The minimal acceptable experience is performance of hospital aseptic management system services

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for 24 months within the previous 36 months from the date established for receipt of initial proposals \* \* \*."

Scientific protests that the experience requirements are too restrictive for it to submit a proposal. Scientific asserts that the requirements unduly restrict competition by eliminating otherwise qualified contractors from competing; Scientific suggests that a contractor's presentation in its technical proposal provides a more than adequate basis for evaluation of a contractor's understanding and ability to perform the required services without the need for restrictive experience requirements. In support of its position, Scientific asserts that it is a qualified contractor which has performed housekeeping services in comparable hospitals but that it lacks experience in cleaning certain "critical areas," such as surgical areas, because various installations did not permit Scientific to clean these areas even though the work was included within the scope of its contracts. Rather, agency technical personnel allegedly performed the cleaning of these areas (although Scientific nonetheless received payment for these services).

Scientific also traces the history of HAMS procurement since its inception in 1975. The protester contends that conditions which initially justified the use of such stringent experience requirements no longer exist since the Air Force has now acquired over 7 years of continuous services from HAMS contractors. Scientific argues that the Air Force, by the use of a standard "Task and Frequency Chart," now details its minimum needs for each facility acquiring these services. Scientific contends that the development of such charts "reduces severely the requirement for a great deal of experience in management expertise since procedures in tasks and frequencies have been developed which simply require capable contractors \* \* \* to carry out these [tasks]." Scientific alleges that the Air Force technical support personnel in fact perform or supervise contractor's employees in performing the cleaning of critical areas, thus rendering the Air Force's emphasis on the cleaning of critical areas by contractors a "farce."

Scientific also notes that it requested the Air Force to permit the personal experience of its vice president to be substituted for the corporate experience requirements of the solicitation but that the contracting officer refused to do so. The Air Force further refused to consider Scientific's willingness to hire incumbent personnel who would continue to perform their current tasks without any disruption should Scientific be awarded the contract.

The Air Force states that the experience requirements contained in the solicitation have existed since the inception of the HAMS program. The requirement for 2 years experience was established by the Air Force Surgeon General's Office to insure that contractors performing cleaning services in the critical areas of surgery, labor and delivery, newborn nursery, and recovery have previously demonstrated their ability to maintain aseptic conditions. Further, the Air Force notes that in many instances a contractor's written procedures for maintaining the appropriate levels of asepsis in critical, sub-critical and support areas within the medical facility become that facility's written program for evaluation by the Joint Commission on Accreditation of Hospitals to determine whether the facility is to receive further accreditation. Since the Air Force does not have "back-up" technical personnel for cleaning the critical hospital areas, it must rely solely on contractors to perform the services. Thus, the Air Force Surgeon General reasoned that 2 years of continuous service were needed to provide the Air Force with the assurance that its minimum needs in asepsis would be satisfied. The Air Force denies that its personnel are performing or supervising any contractor's employees in the performance of aseptic services at any of its hospitals, and asserts that since there are eight fully capable contractors that meet the experience requirement and have responded to HAMS solicitations, considerable competition always has been obtained.

In regard to Scientific's request to substitute officer and employee experience in lieu of corporate experience, the Air Force states that inexperienced offerors have made numerous attempts to circumvent experience requirements by appointing former Air Force housekeepers as vice presidents or representing hospital work performed as being equivalent to HAMS when in fact the contracts involved housekeeping services. The Air Force states that

the Surgeon General concluded that there was a need for the "business momentum" of a stable and mature organization with 2 years experience operating as a functioning unit, thus having the "stability, resiliency and other characteristics of management" to provide the necessary optimal performance as soon as the contract term begins. The Air Force states that it will not permit "on-the-job-training" when the health and welfare of its personnel are involved.

We cannot conclude that the experience requirements of the RFP are unduly restrictive. The question of necessary contractor qualifications is a matter dictated in large part by the minimum needs of the Government. Although restrictive requirements should be limited to maximize competition among potential offerors, we consistently have held that the contracting agencies are primarily responsible for determining the Government's minimum needs, as well as the methods of accommodating those needs. Manufacturing Data Systems Incorporated, B-180608, June 28, 1974, 74-1 CPD 348. They are in the best position to draft appropriate specifications since they are familiar with the conditions under which previous procurements have been performed, and what future requirements should be. Particle Data, Inc.; Coulter Electronics, Inc., B-179762, B-178718, May 15, 1974, 74-1 CPD 257; Manufacturing Data Systems Incorporated, B-180586, B-180608, January 6, 1975, 75-1 CPD 6. Consequently, we will not question an agency's determination of what its actual minimum needs are unless there is a clear showing that the determination has no reasonable basis. Maremont Corporation, 55 Comp. Gen. 1362 (1976), 76-2 CPD 181.

Further, once an agency, as here, has established prima facie support for its contention that the specification which the protester is challenging as unduly restrictive is reasonably related to its needs, the burden of proof lies with the protester to show that the Government's insistence upon it is clearly unreasonable. Allied Security, Inc. of Maryland, B-201365, May 4, 1981, 81-1 CPD 337. Here, the record shows that the needs of the Air Force include the cleaning of critical areas of hospitals such as surgery, labor and delivery, newborn nursery, and recovery, and that while management is an inherent and

often essential part of any procurement contract, effective management is particularly necessary in HAMS situations. See Tidewater Protective Services, Inc., and others--reconsideration, 56 Comp. Gen. 649, 653-4 (1977), 77-1 CPD 361. Also, we have found reasonable, in connection with other protests involving HAMS procurements, the Air Force's general position that, because crucial health concerns are involved, the agency's minimum needs can be satisfied only by the highest possible aseptic environment and thus the best available service. Id; Harris Systems Pest Control, Inc., B-199636, May 27, 1981, 81-1 CPD 413. In view of these considerations, we do not believe it is unreasonable for the Air Force to insist upon obtaining contractors experienced in all phases of the necessary effort to perform the work. Essentially for the same reasons, we do not believe the length of experience required by the Air Force--2 years of organizational experience--or the requirement for organizational, as opposed to employee, experience, has been shown to be unreasonable.

On the basis of the record before us, we conclude that Scientific has not met its burden of showing that the specification is unduly restrictive.

The protest is denied.

*for* Milton J. Aorolan  
Comptroller General  
of the United States