

D. Hasfurther



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Monarch Enterprises, Inc.

File: B-239770

Date: September 12, 1990

William B. Jolley for the protester.
Ronald E. Burch for Pyramid Services, Inc., Charles A. Clement for Service Ventures, Inc., Patrick E. Resley for RAMCOR Services Group, Inc., De Vere Jerry Burtenshaw for ABC Services, John R. Gilchrist for Crawford Technical Services, Inc., and Judith M. Towne, Facilities Engineering & Maintenance Corporation, interested parties.
James J. Fisher, Department of the Treasury, for the agency.
David Hasfurther, Esq., and John Brosnan, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where evaluation factors are clearly set forth there is no requirement that those factors in every case contain minimum standards.

DECISION

Monarch Enterprises, Inc. protests the evaluation factors used in request for proposals (RFP) No. FTC 90-1, issued by the Federal Law Enforcement Training Center, Department of the Treasury, for operational student support services for the Federal Law Enforcement Training Center in Artesia, New Mexico. Monarch contends that the solicitation is defective as it does not contain the "minimum requirements" the agency considers applicable to each evaluation factor.

We deny the protest in part and dismiss it in part.

The RFP, issued on April 2, 1990, contemplated the award of a cost-plus-award-fee contract and provided that proposals were to be evaluated in accordance with the following technical evaluation scheme:

049430/142212

	Points
(1) Technical Proposal	
(a) Plan of Operation	14.5
(b) Management Plan	14.5
(c) Qualification of Manager Other Key Personnel	14.5
(d) Quality and Pertinence of Related Company Experience	13.5
(e) Company Resources	12.5
(f) Responsiveness to Proposal Instructions	5.5
(2) Cost	<u>25</u>
TOTAL	100

The agency received 16 proposals on the June 8 closing date. Subsequently, 11 of these proposals were determined to be in the competitive range.

Monarch argues that Federal Acquisition Regulation (FAR) § 15.605(e) requires that the solicitation inform offerors of the minimum requirements that apply to particular evaluation factors and significant subfactors and concludes that this standard has been violated here since the six factors by which technical proposals are to be evaluated do not contain minimum requirements. For instance, the protester argues that the factor measuring the qualifications of the manager should have set out the minimum education required. Also, in its comments on the agency report, Monarch for the first time objects to a statement in the RFP that the technical proposals "will be evaluated subjectively" because, according to the protester, a subjective evaluation will not allow an assessment of the offeror's ability to successfully accomplish the work.

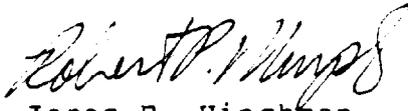
Monarch's argument is founded on a misunderstanding of FAR § 15.605(e). Contrary to Monarch's interpretation of that regulation, the agency is not required to formulate minimum standards where it has no need for a contractor meeting certain objective standards. In fact, including such requirements with no justification would be improper in that the solicitation requirements would improperly exceed the government's minimum needs. See Skyland Scientific Servs., Inc., B-229700, Feb. 9, 1988, 88-1 CPD ¶ 129. As we indicated in W.B. Jolley, 68 Comp. Gen. 443 (1989), 89-1 CPD ¶ 512, a case concerning an almost identical argument raised by the same protester, we read FAR § 15.605(e) as requiring the disclosure of minimum requirements only where

such requirements are deemed necessary by the agency and will be used in the evaluation.

Here, in order to ensure that the specifications were stated in terms that would permit the broadest field of competition to meet its minimum needs, the agency properly stated its needs in terms of performance requirements. Thus, minimum standards were not necessary since the best evaluation method was determined to be one that would compare proposals against each other rather than against an objective minimum requirement. W.B. Jolley, 68 Comp. Gen. 443, supra.

Monarch's argument that the RFP was defective in providing that technical proposals would be evaluated subjectively, first raised on July 26, is untimely and will not be considered as it was raised well after the June 8 deadline for the submission of offers. Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (1990). Monarch also argued in its original protest that the contracting agency should have assisted it in formulating a proposal. Since Monarch did not pursue the matter after the agency explained in its report why it could not have properly done this, we conclude that Monarch has abandoned the issue, and we will not consider it further. JWK Int'l, Corp., B-237527, Feb. 21, 1990, 90-1 CPD ¶ 198.

The protest is denied in part and dismissed in part.


for
James F. Hinchman
General Counsel