



Comptroller General
of the United States

Washington, D.C. 20548

146670
Gorczycki

Decision

Matter of: Residential Refuse Removal, Inc.
File: B-247198
Date: May 11, 1992

Chip B. Warren for the protester.
Major Bobby G. Henry, Jr., Esq., Department of the Army, for the agency.
Henry J. Gorczycki, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

The Department of the Army's determination that its minimum needs for refuse collection services include off-post washing of refuse collection trucks and collection of all refuse left for collection, regardless of its size, weight, or quantity, has a reasonable basis.

DECISION

Residential Refuse Removal, Inc.¹ protests certain specifications in invitation for bids (IFB) No. DAKF40-91-B-0054 issued by the Department of the Army for refuse collection from troop and family housing areas at Fort Bragg, Camp Mackall, and Pope Air Force Base, North Carolina.

We deny the protest.

The IFB anticipated a fixed-priced procurement of refuse collection services for 1 year with 4 option years and provided a detailed description of the required services. For example, paragraph C.11.3.1 of the IFB required the contractor to maintain the sanitary condition of its refuse collection trucks by washing them on a weekly basis at an off post location. The IFB also specified, at paragraph C.12.1.3.2, that all refuse placed for collection "shall be collected, and no items shall be left on the street or curbside at the end of the scheduled pickup day . . . All refuse shall be picked up without regard to size, weight, or quantity."

¹Residential Refuse is the incumbent contractor for these services.

Residential Refuse protested with our Office on January 7 alleging, among other things, that the truck washing specification was overly restrictive and that the specification regarding unrestricted size, weight, and quantity of refuse to be collected was unreasonable.²

The determination of the government's minimum needs and the best method of accommodating those needs are primarily the responsibility of contracting agencies. We have recognized that government procurement officials, since they are the ones most familiar with the conditions under which supplies, equipment, or services have been used in the past and how they are to be used in the future, are generally in the best position to know the government's actual needs. Consequently, we will not question an agency's determination of its actual needs unless the determination has no reasonable basis. Jones Refrigeration Serv., B-221661.2, May 5, 1986, 86-1 CPD ¶ 431.

Residential Refuse asserts that the Army previously provided an on-post wash facility and that, in order to wash its trucks off post, Residential Refuse would have to build a wash facility. Residential Refuse claims that this requirement is overly restrictive because it inhibits the ability of non-local small businesses from competing with local refuse collection contractors, who either already have off-post wash facilities or would be in a better position to construct them. Residential Refuse asserts that, since the Army already has wash facilities on post and has previously made these facilities available to contractors, off-post washing should not be required.

It is apparent that weekly washing of refuse trucks is necessary to prevent the vehicles from becoming hosts to vermin and unsanitary odors, and Residential Refuse does not protest this aspect of the requirement. The Army explains that it does have wash facilities on post, but these facilities either do not meet the sanitary waste disposal requirements of environmental regulations applicable to all new contracts, are reserved for military units, or are in

²Residential Refuse had raised numerous other issues regarding the IFB specifications, in response to which the agency either took corrective action or provided a detailed explanation. Residential Refuse was advised by our Office (and it agreed) that we would only consider the issues specifically discussed in its last submission to our Office. The only two issues specifically addressed in Residential Refuse's last submission, received April 1, 1992, concerned the truck washing and unlimited trash pickup requirements.

restricted areas. Thus, on-post wash facilities are no longer available for washing refuse trucks. Residential Refuse does not explain how on-site facilities comply with applicable environmental requirements or identify any specific on-site facilities that can practicably be made available to the contractor. Although Residential Refuse asserts that the Army is in a better position than potential bidders to construct wash facilities, this does not reflect on the reasonableness of the Army's determination to require the contractor to utilize off-post washing facilities, considering that this is the only viable alternative the Army has. In this regard, the IFB does not require the contractor receiving award to construct its own wash facility, but only that its vehicles be washed off post. Under the circumstances, the Army has a reasonable basis for this requirement.

Residential Refuse also alleges that residents at Fort Bragg do not properly present their refuse for collection, so it is not reasonable to require the contractor to pick up all of the refuse. Residential Refuse asserts that other communities routinely impose regulations on its residents to bag, separate, bundle, or otherwise prepare its refuse to aid in efficient refuse collection. The protester requests that the Army impose such regulations on its residents and incorporate these regulations into the IFB so that the contractor would not have to collect refuse that was not properly presented for collection. Residential Refuse also proposes that all refuse not properly presented would be left uncollected with an explanatory note for the resident to correct the problem. Under this system, bidders would not have to anticipate the extra work needed to collect improperly presented refuse.

We find reasonable the Army's requirement to have all refuse collected, regardless of how its residents present their refuse for collection. The Army explains that it already has residential refuse regulations in place and that it will make efforts in the future to see that its residents comply with these regulations. However, the Army declines to incorporate these regulations into the IFB because it needs all refuse collected, regardless of whether residents comply with the regulations. While Residential Refuse argues that this requirement will unnecessarily increase the cost to the government since bidders will reflect in their bids the cost of the anticipated, extra workload that will result from the failure of residents to properly present their refuse for collection, this cost risk can reasonably be passed to the contractor, given the agency's need to have all of its refuse collected. See Laidlaw Env'tl. Servs. (GS), Inc., B-245587; B-245587.2, Jan. 16, 1992, 92-1 CPD ¶ 82.

Based on the foregoing, we find the agency has a reasonable basis for the inclusion of the protested specifications in the solicitation.

The protest is denied.

James F. Hinchman
for James F. Hinchman
General Counsel