



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: W.M.P. Security Service Company

File: B-256178

Date: May 12, 1994

Paul V. Murphy for the protester.
Kathleen D. Martin, Esq., Department of State, for the agency.
Adam Vodraska, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

State Department reasonably required Jamaican guard services contractor to provide meals, maintain uniforms, and to utilize and maintain a designated training facility.

DECISION

W.M.P. Security Service Company protests request for proposals (RFP) No. SOJM370-93-0002, issued September 17, 1994, by the Department of State for security guard services at the United States Embassy and related facilities in Kingston, Jamaica. The closing date for receipt of proposals, January 14, 1994, has been suspended pending resolution of this protest. The protester contends that several requirements in the solicitation are unreasonable and are not necessary to the provision of guard services, namely, those requiring the contractor to: (1) subsidize and provide hot meals for the guards, (2) maintain the guards' uniforms to designated standards, and (3) utilize and maintain a designated training facility.

We deny the protest.

As a general rule, the determination of the government's minimum needs and the best method of accommodating them is primarily the responsibility of the contracting agency since agency officials are most familiar with the conditions under which the supplies or services will be used. Thus, we will not question an agency's determination of its minimum needs unless there is a clear showing that the determination had no reasonable basis. Tucson Mobilephone, Inc., B-250389, Jan. 29, 1993, 93-1 CPD ¶ 79.

The Department of State has designated Kingston as posing a "critical threat" level due to the crime situation in the city. The RFP's statement of work requires:

"an extraordinary guard service, that has been provided extensive training related to the following tasks: preventing unauthorized access, protecting life, maintaining order, deterring criminal attacks against employees, dependents and property and terrorist acts against all U.S. assets, comprehensive first aid, disaster training . . . and preventing damage to Government property."

According to the agency, the specific requirements for security guard services in Kingston were developed to take into account "the particular political climate, particular security threats, local laws and customs" and to provide "a unique, highly motivated, and exceptionally well trained security force."

The protester argues that the requirements under section H.5.3.1 of the RFP, entitled "Subsidized Meal Program," are unreasonable and not necessary for the provision of guard services. Section H.5.3.1 provides that:

"Recognizing its responsibility to ensure constant alertness by its personnel and to reduce illness and absenteeism due to the erratic work schedules and long hours of duty, the Contractor will propose a subsidized hot meal and beverage program for its employees. . . . [T]he Contractor will provide 50 [percent] subsidy, and the participating employees will provide the other 50 [percent] funding [via payroll deductions]. The Contractor will arrange for the delivery of a hot meal and beverage to each participating employee during his shift."

According to the protester, the government's needs could be met by merely requiring the guards to be alert and that alertness can be maintained by techniques other than providing meals.

We find the hot meal requirement unobjectionable. As noted in the RFP, "it is normal and customary in Jamaica for employers to provide such a subsidized meal program to employees." The agency states that security guards in Jamaica are notoriously untrained and their commensurate low pay prevents them from purchasing meals, and without the meal subsidy, the guards likely would not eat during their 12-hour shifts, and this would obviously affect their performance. The protester did not substantively respond to

the agency's explanation, but only asserted the agency's needs could be met in some other, unspecified way. In our view, the agency has the right to set its minimum needs to achieve the highest possible level of alertness for the guards who will be protecting the lives and property of U.S. citizens working for the Embassy in Kingston, Jamaica.

The protester asserts that the hot meals provision is ambiguous: "Does it mean steak and caviar, or does it mean a heated peanut butter and jelly sandwich?" As a general rule, the contracting agency must give sufficient information to enable offerors to compete intelligently and on a relatively equal basis. C3, Inc., B-241983.2, Mar. 13, 1991, 91-1 CPD ¶ 279. The RFP requires each offeror to "submit its proposed meal program as part of its Technical Proposal to the Government, including a breakdown of the related costs." It is implicit that the hot meals provided must be consistent with local custom, and we find no requirement that this requirement be further specified.¹

The protester contends that requirements specified in section H.4.3, "Uniforms and Personal Equipment," are also unnecessary to the provision of security services and that the contractor should have the discretion to choose how it maintains the guards' uniforms. The provision reads:

"The Contractor shall ensure that each officer is provided at least on a daily basis a clean/heavily starched/pressed shirt and socks, pants every other day. . . . Contractor shall engage the services of a tailor to ensure that all uniforms are fitted to the individual employee; shirts are to be tapered removing excess fabric, and the trousers will have a very slight break above the boot."

The contractor has the discretion as to the suitable means of laundering and tailoring the uniforms. We find the requirement to be reasonable, particularly given that the agency determined that Jamaican law requires the employer to provide and maintain the uniforms. In this regard, section H.4.2. of the RFP, "Appearance," requires "a highly positive image and considers it to be a major asset of a protective force."

¹It seems apparent that neither steak and caviar nor heated peanut butter and jelly sandwiches are customary lunches that would be provided Jamaican guards.

The protester also objects to section H.5.4 of the RFP, entitled "Training," which provides that:

"The training will be conducted in an off-site academic atmosphere with facilities for overnight accommodations, three daily meals, laundry, etc. . . . The Contractor is responsible for all costs associated with this training"

The protestor argues that this provision favors the incumbent contractor, "who may have such an academy, and who may be aware of associated costs." The protester also states that there may be other ways to accomplish training which "may be more efficient and economical to any particular offeror" and that requiring the contractor to maintain the facility is unrelated to providing security service.

We find the RFP's off-site training requirements to be reasonable given the agency's requirement for well-trained guards. The agency notes that there are few, if any, acceptable firing range facilities available in Kingston and that at the request of the Jamaican government the Embassy agreed to conduct the firearms training for the guards away from public view. Pursuant to an agreement with the Jamaican government, the successful offeror will be provided access to the National Police Academy in order to conduct the training program.² We find no unfair incumbent advantage in this reasonable requirement.

The protest is denied.


for Robert P. Murphy
Acting General Counsel

²The use of any alternate facility must be approved by the agency.