



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Worldwide Primates, Inc.

File: B-227146

Date: July 7, 1987

DIGEST

Protest that solicitation requirement for laboratory bred rhesus monkeys for use in research is unduly restrictive is denied where the record supports the procuring agency's determination that while laboratory breeding does not ensure disease free monkeys, laboratory bred monkeys are more likely to have fewer health problems than those captured in the wild.

DECISION

Worldwide Primates, Inc. (WPI) protests the National Institutes of Health (NIH), Department of Health & Human Services, requirement for laboratory bred rhesus monkeys under invitation for bids (IFB) No. 263-87-B(63)-0065.1/ The monkeys are needed for laboratory research. WPI argues that the requirement for laboratory bred monkeys is restrictive and that the agency failed to justify the requirement. We deny the protest.

NIH reports that it has a current requirement to procure rhesus monkeys for its Division of Research Services, Veterinary Resources Branch. This NIH division provides professional and technical support services to NIH research programs. This includes conditioning laboratory animals and

1/ WPI initially also protested the requirement that the rhesus monkeys be of Chinese origin and that the 30-day bid preparation period did not allow bidders adequate time to obtain required documentation showing evidence of availability of the monkeys. NIH issued amendment No. 1 which deleted the requirement that the monkeys be of Chinese origin and which also extended the bid opening date 60 days. Accordingly, since the agency gave corrective action on these two protest issues, these issues are academic. See Areawide Services, Inc., B-225253, Feb. 9, 1987, 87-1 CPD ¶ 138.

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also providing veterinary services for these animals. The agency gives basically four reasons for the requirement that the monkeys be laboratory bred. First, it states that laboratory bred animals are more likely to have fewer health problems than those caught in the wild. The agency explains that although animals caught in the wild can be screened for health problems, certain diseases are difficult to detect and use of diseased animals can invalidate research. Second, NIH explains that behavior research data baselines, such as for example, brain wave patterns data, have been developed for research which are based exclusively on laboratory animals and that use of wild animals would render useless this research data. Third, use of laboratory bred monkeys aid research projects which require knowledge of a monkey's precise age and breeding background. Thus, information concerning parental lineage and genetic homogeneity is available for laboratory bred animals. Fourth, the agency states that it needs a stable and certain supply of the animals and that the availability of monkeys from the wild are more subject to supply fluctuation.

WPI responds that the fact monkeys have been laboratory bred does not ensure that they will be without disease. For example, the protester states that it is aware of several recent cases of laboratory bred Chinese rhesus monkeys which have arrived in the United States with tuberculosis. Also, WPI argues that while NIH claims that an intermix of various genus subtypes of monkeys compromises research data baselines, the fact that monkeys are laboratory bred does not ensure that they are from the same sub-species or parentage. Finally, the protester states that the rhesus monkey is not on the "endangered species list" and thus, there is not a supply problem with wild rhesus monkeys.

In preparing a solicitation for supplies or services, a contracting agency must specify its needs and solicit bids or offers in a manner designed to achieve full and open competition, so that all responsible sources are permitted to compete. 41 U.S.C. § 253(a)(1)(A) (Supp. III 1985); see also Abel Converting, Inc., B-224223, Feb. 6, 1987, 87-1 CPD ¶ 130. Consequently, when a solicitation requirement is challenged as exceeding the agency's actual needs, the initial burden is on the procuring agency to establish support for its contention that the requirement is justified. Daniel H. Wagner, Associates, Inc., 65 Comp. Gen. 305 (1986), 86-1 CPD ¶ 166. We determine the adequacy of the agency's justification by examining whether its explanation can withstand logical scrutiny. R.R. Mongeau Engineers, Inc., B-218356, et al., July 8, 1985, 85-2 CPD ¶ 29. Once

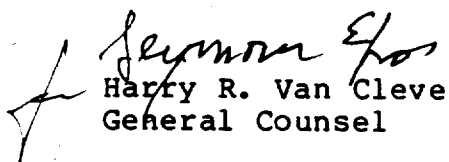
the agency establishes support for the challenged specifications, the burden shifts to the protester to show that the specifications in dispute are unreasonable. Abel Converting, Inc., B-224223, supra.

We find that NIH has justified the requirement for laboratory bred monkeys. The agency explains that the laboratory reared rhesus monkey is less likely to carry certain diseases than those caught in the wild. The agency points out that the probability of certain parasitic diseases is less likely in laboratory bred monkeys than in those captured in the wild and that these and other diseases are often difficult or impossible to detect by screening methods. Thus, NIH reports that since these diseases in the animals can invalidate research, it only has used wild animals as a last resort where laboratory reared animals are unavailable.

The protester argues that the fact that monkeys are laboratory bred does not ensure that the monkeys will not have certain difficult to detect diseases such as tuberculosis. NIH acknowledges that laboratory breeding does not guarantee that these animals will be disease free; however, NIH explains that laboratory breeding decreases the probability of diseases in these animals and the protester does not rebut NIH's finding based on extensive research that laboratory bred animals generally are more likely to be healthy than those captured wild.

Thus, we find that the record supports NIH's requirement for laboratory bred monkeys. See Independent Products Co., Inc., B-207519.2, Apr. 22, 1983, 83-1 CPD ¶ 434. We, therefore, have no basis to object to this requirement.

The protest is denied.


Harry R. Van Cleve
General Counsel