



Comptroller General  
of the United States

Washington, D.C. 20548

*Ms. Clayton-Jones*

## Decision

**Matter of:** Bill Strong Enterprises, Inc.

**File:** B-245619

**Date:** December 16, 1991

William W. Strong for the protester.  
Paul M. Fisher, Esq., Department of the Navy, for the agency.  
Shirley A. Jones, Esq., and Henry R. Wray, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

1. Protest alleging that specifications favor local contractors is denied since the alleged advantage is not the result of preference or unfair action by the United States Government.
2. Protest alleging that solicitation's performance schedule is unduly restrictive is denied where agency's determination of its needs are reasonable.
3. Protest alleging that the solicitation's performance schedule conflicts with certain technical specifications is denied where the record shows that no such conflict exists.

### DECISION

*D-24*  
Bill Strong Enterprises, Inc. (Strong) protests the terms of Invitation for Bids (IFB) No. N62472-86-B-0067, issued by Northern Division, Naval Facilities Engineering Command, Philadelphia, Pennsylvania, for family housing repair and modernization services. Strong essentially contends that the phased construction schedule requirement in the solicitation (1) favors local contractors, (2) is unnecessary and therefore unduly restrictive, and (3) is in direct conflict with certain other technical requirements of the solicitation.

We deny the protest.

*[Protest of Navy Solicitation F. H. Strong, Inc. - Denied]*

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The IFB contemplated the award of a fixed-price construction contract. Under the contract, the successful bidder would commence and complete the work in six designated phases. The work was to be done on the family housing units at the Naval Education and Training Center in Newport, Rhode Island, and included asbestos removal, window replacement, mechanical and electrical revisions, and painting.

Strong objects to the phased construction schedule requirement on several grounds. First, Strong argues that the shut-down periods in the phasing requirement show favoritism toward local contractors. According to Strong, the forced shut-downs between phases favor local contractors because the start-ups and shut-downs at the beginning and end of each phase would require multiple mobilizations.

Strong has provided no specific evidence to support its argument that the phasing requirements favor local contractors. In any event, there is no legal requirement that an agency equalize competition with respect to advantages unless that advantage results from preferential treatment on the part of the government. See, DOD Contracts, Inc., B-240590.2, Jan. 7, 1991, 91-1 CPD ¶13. Here, any advantage enjoyed by local contractors does not result from preferential treatment by the government but, rather, from those contractors' particular circumstances. We, therefore, find no improper bias on the agency's part.

Strong also argues that the shut-down periods in the phased scheduling requirement are unnecessary and, therefore, unduly restrictive. Where a protester alleges that a requirement is unduly restrictive, we review the record to determine whether the requirement has been justified as necessary to satisfy the agency's minimum needs. PHH Homequity Corporation, B-240145.3; B-241988, Feb. 1, 1991, 91-1 CPD ¶100. However, contracting agencies have broad discretion in identifying their needs and determining what characteristics will satisfy those needs. Bombardier, Inc., Canadiar, Challenger Division, B-243977; B-244560, Aug. 30, 1991, 91-2 CPD ¶224. We, therefore, will not question an agency's determination of its needs so long as it has a reasonable basis. Id.

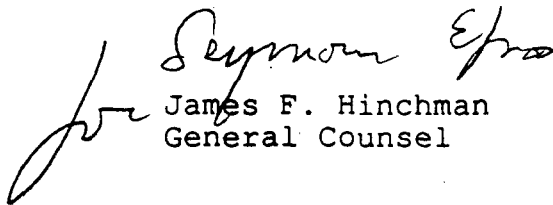
In our view, the agency has demonstrated that the phased scheduling requirement, including the shut-down periods, has a reasonable basis. The agency explained that the units in question house Naval War College students, and that the phased project schedule is arranged to coincide with the academic calendar of the student residents. According to the agency, it is not feasible to perform the required work while the units are occupied due to the intensive academic curriculum of the students. Further, the agency states that the interior work is substantial, and includes activities,

such as asbestos removal, which cannot take place while units are occupied. Therefore, the schedule was arranged to renovate most of the units during the periods of vacancy. Strong has offered no evidence to counter the agency's explanation. Accordingly, we find the phased scheduling requirement, including the shut-down periods, to be reasonable.

Finally, Strong contends that there is a conflict between the performance schedule and certain technical specifications. Specifically, Strong argues that the short performance periods for phase completion are in direct conflict with the technical specifications found in section 03300, paragraph 3.4.3, section 02930, paragraph 3.2.1, and section 02511, paragraph 1.2, regarding placement of concrete, roofing, seeding, and asphalt in cold weather.

We do not find support for this allegation in the record. First, although paragraph 3.4.3 of section 03300 provides that concrete temperature should not be allowed to decrease below 50 degrees, it does allow placement of concrete during cold weather with supplemental heat. In addition, while paragraph 3.2.1 of section 02930 prohibits the contractor from seeding when the ground is muddy, frozen, snow covered, or in an unsatisfactory condition for seeding, it also allows the contractor to propose a variance to the performance schedule where special conditions warrant it. Similarly, paragraph 3.1 of section 02511, as amended, also allows the contractor to propose a variance to the performance schedule with regard to the placement of asphalt. Finally, none of the three provisions contains cold weather restrictions with regard to roofing.

The protest is, therefore, denied.

  
James F. Hinchman  
General Counsel