

Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: CardioMetrix

File: B-248295

Date: August 14, 1992

Robert J. Loring, Ph.D., for the protester, Alan Mendelsohn, Esq., James J. Janosek, Esq., and Samuel Novello, Esq., Department of the Navy, for the agency. Katherine I. Riback, Esq., and John Brosnan, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging, as unduly restrictive of competition, a requirement in request for proposals for medical screening services that information be reported within 5 working days of the request is denied where the agency explains why the requirement is reasonably related to its minimum needs and the protester does not refute the agency's position.

DECISION

CardioMetrix protests as unduly restrictive a provision of request for proposals (RFP) No. N00033-92-R-3022, issued by the Department of the Navy, Military Sealift Command for medical screening services. CardioMetrix states that it cannot meet the requirement that the contractor report any results within 5 working days of the request for medical screening information.

We deny the protest.

The solicitation provides that the contractor shall provide medical screening services of prospective civil service mariner employees when requested for a base year and 2 option years. The information to be provided includes any history of injury or illness occurring during the careers of maritime personnel reported in local, state, and federal claims files, worker's compensation files, and any other source from which the contractor may legally extract information. The RFP provides that the contractor shall report resulting information within 5 working days of receipt of the request, and that for special requests for medical screening the response must be made within 2 working days.

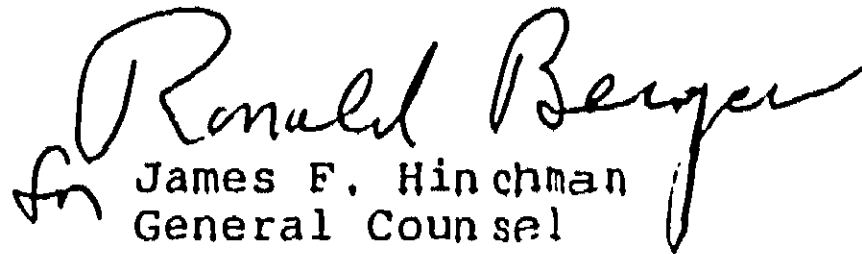
CardioMetrix argues that since it must obtain the requested information from third parties it will take the firm longer than 5 days to respond. The protester points out that the contractor has no ability to enforce the time restriction in the RFP on these third party information sources and suggests that the agency extend the response time to a "more reasonable time frame" such as 30 days.

In preparing a solicitation for supplies or services, a contracting agency must specify its needs and solicit offers in a manner designed to achieve full and open competition, 10 U.S.C. § 2305(a)(1)(A)(i) (1988), and include restrictive provisions or conditions only to the extent necessary to satisfy the agency's needs, 10 U.S.C. § 2305(a)(1)(B)(ii). 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. Admiral Towing and Barge Co., B-245600; B-245602, Jan. 16, 1992, 92-1 CPD ¶ 83. Here, we find that the requirement that the contractor report medical screening information within 5 working days of the request is reasonably related to the agency's minimum needs.

The agency explains that a mariner considered for employment goes through a screening process that includes a physical examination performed generally within 2 days of arrival and that part of this examination requires screening of the mariner's medical and injury history by review of the information to be provided under the contract contemplated by the RFP. According to the Navy, since mariners are hired and sent to sea in a short period of time the screening information is needed as soon as possible after the request is made. The agency states that such timely receipt of the medical screening information prevents employment of high risk applicants, and that a physically unqualified person assigned to a ship presents a potential hazard due to the limited medical care available aboard the ships. According to the agency, if a physically unqualified mariner is assigned aboard a ship and later must be removed, the absence of that one mariner could cause significant mission disruption due to the fact that ship manning is maintained at the minimum level required for operations, and ceasing operations to return to port could be a costly ship diversion and severely impair MSC's ability to meet operational commitments. Moreover, the Navy states that its incumbent contractor has been furnishing the required information in even less than the 5 days required by this solicitation.

The protester has not refuted any portion of the agency's rationale for the "turn around" time for the reports. Thus, on this record, the requirement appears to be a reasonable one and one that can be met. Accordingly, we have no basis to object to the requirement.

The protest is denied.


James F. Hinchman
General Counsel