

Proc 1

DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

9482

FILE: B-193356

DATE: March 15, 1979

MATTER OF:

American Masters Cleaning Systems, Inc.

DLG-01224

DIGEST:

1. Protest that RFP's specifications were unclear, and that RFP should have included "window count," is untimely and will not be considered on merits, since it was not filed prior to closing date for receipt of initial proposals.
2. Protest that, in contract performance, successful offeror will use Government equipment that would not have been furnished to any other contractor is denied, since record indicates that contractor is providing all necessary equipment.
3. Protest that in preparing their proposals all offerors may not have used same "average student population" is denied where RFP advised all offerors that "average student population" was projected as 850.
4. GAO fails to see how protester, who contends that Government estimate of "supervisory man-hours" as 6 percent of RFP's stated "productive man-hours base" is overstated, is prejudiced thereby, since protester proposed approximately that percentage, and all offers were evaluated on same basis in that regard.
5. Protester's contention that successful offeror under RFP for dormitory management and cleaning services "owns or has a partial interest in the laundry he is using" provides no basis to question contract award. In any case, successful offeror denies such allegation.

*dec*

[PROTEST AGAINST  
Contract Award for  
CLEANING SERVICES]

~~004132~~

American Masters Cleaning Systems, Inc. (AMCS), protests the award of a "cost reimbursement plus award fee incentive type" contract by the Department of the Treasury to Custom Janitorial Service (Custom) for dormitory management and cleaning services at the Federal Law Enforcement Training Center in Georgia. The contract period is October 1, 1978, through September 30, 1979. *AB-000037*  
*CM661092*

Request for proposals (RFP) No. CTC-78-18 for the services was issued on May 30, 1978. Initial proposals were due on July 14, by which date six proposals were received. All six were determined to be in the competitive range, and written discussions were initiated. Best and final offers were submitted by August 4, and upon evaluation Custom received the highest "Numerical Score" of 83.8 (out of 100) and proposed the lowest "Total Estimated Price & Fee" by \$12,000 (\$1,042,297). AMCS was ranked fifth in both "Numerical Score" (72) and "Total Estimated Price & Fee" (\$1,106,598). Award was made to Custom on September 12.

AMCS argues that the solicitation's specifications were unclear, and should have included a "window count"; AMC suggests that some offerors, including Custom, in fact may have been furnished a "window count," while others, including the protester, were not. AMCS also contends that Custom's contract performance will include the use of certain Government equipment that would not have been furnished to any other contractor; that other proposals including Custom's were not based on the same "average student population" communicated to AMCS (850); and that although it has learned that the Government estimate for "supervision hours" was 6 percent of the "productive man-hours base," in AMCS's experience 3 to 4 percent is sufficient. Finally, AMCS states that it has been informed that Custom improperly "owns or has a partial interest in the laundry he is using."

Section 20.2(b)(1) of our Bid Protest Procedures, 4 C.F.R. part 20 (1978) (Procedures), requires that

protests based upon alleged improprieties in an RFP which are apparent prior to the closing date for receipt of initial proposals must be filed by that date. Initial proposals under RFP No. CTC-78-18 were received on July 14, 1978. ACMS's protest was filed in our Office on October 12. Accordingly, the matters of the clarity of the specifications and the necessity for a window count are untimely under our Procedures and will not be considered on the merits.

Moreover, in a report on the protest Treasury denies that it improperly furnished a window count to any of the offerors, but also points out that the RFP cautioned bidders that site visits and attendance at a preproposal conference were advisable. Apparently, an offeror visiting the site could have made its own window count. We agree with the following statement in Treasury's report:

"\* \* \* Failure to ascertain the window count is, in our opinion, nothing more than negligence on the part of the protester, since he was given ample opportunity to obtain the window count if he felt it was necessary."

Concerning the equipment being used by the contractor, paragraph 2b(1)(k) of the RFP states in pertinent part that "The offeror must provide all of the equipment required." Treasury advises that Custom is providing the equipment for use in contract performance, and that no Government-owned equipment has been furnished to the contractor. There is no evidence to dispute that advice.

Amendment No. 2 to the solicitation advised all offerors that the average student population was projected as 850. AMCS received the amendment, and we see no basis to conclude that all offerors, including AMCS, used other than that figure as guidance in preparing their proposals.

Treasury responds to the "supervision hours" issue as follows:

"\* \* \* [RFP] Section B, Specific Instructions \* \* \* states in part as follows: 'Supervision: Enter all supervisory man-hours, including those of the Project Manager. . . .' \* \* \* Supervision hours proposed by the various offerors were evaluated using a predetermined Government estimate of 6% of the productive man-hours base [set out in the RFP] (179,984), plus 2,016 annual man-hours for the Project Manager. It is interesting to note that in its revised 'Best and Final' offer, AMCS proposed 10,724 man-hours of supervision vis-a-vis 12,815 as proposed by CJS [Custom]. The AMCS proposal is approximately 6% of the productive man-hour base; however, it appears that the annual man-hours for the Project Manager was not included."

Since all offers were evaluated on the same basis, we do not see how AMCS was prejudiced in this regard.

Finally, AMCS's speculation that Custom "owns or has a partial interest in" a laundry provides no basis to question the contract award. In any case, in comments on the protest Custom denies that allegation.

The protest is denied.



Deputy Comptroller General  
of the United States