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**Comptroller General
of the United States**

**United States Government Accountability Office
Washington, DC 20548**

Decision

Matter of: Washington Adventist Hospital

File: B-294371.3; B-294371.4

Date: January 21, 2005

Paul M. Vincent, Esq., and E. John Steren, Esq., Ober, Kaler, Grimes & Shriver, for the protester.

Douglas W. Kornreich, Esq., Department of Health and Human Services, for the agency.

Mary G. Curcio, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

In solicitation for hospital to partner with agency in establishing cardiothoracic surgery branch, geographical restriction requiring hospital to be within 10-minute walk or 5-minute drive from agency campus is reasonable where record shows restriction is necessary to meet agency's programmatic needs, which include quick accessibility to campus and hospital due to frequent interaction between program members in different locations.

DECISION

Washington Adventist Hospital (WAH) protests the geographical restriction in solicitation No. NHLBI-HI-05-18, issued by the National Institutes of Health (NIH), National Institute of Heart, Lung and Blood Institute (NHLBI), for a hospital to partner with the agency in establishing a cardiothoracic surgery branch (CTSB).

We deny the protest.

Prior to 1990, as part of its intramural research branch, NHLBI included a CTSB, which linked basic laboratory research and clinical investigation and served as a research and training program for surgeons. NHLBI desires to reestablish the CTSB, but does not have the facilities or staff to provide treatment for patients requiring acute or emergency cardiac care. As a result, the agency determined that the best way to accomplish its goals was to collaborate with an outside hospital, with surgeries taking place there and research being performed at the hospital and at the NHLBI laboratory. NHLBI further determined that it would be necessary for the

hospital to be in close proximity to the agency's research laboratory, in order to minimize the time spent by program participants traveling between the two facilities, and to maximize the time they could devote to research activities while also responding to patient needs. Consequently, in its November 4, 2004, "sources sought" synopsis, the agency announced its intention to award a sole-source contract to Suburban Hospital, the only hospital a short distance from NHLBI. Among other things, the synopsis stated the requirement that the offeror be within a 5-minute drive or a 10-minute walk of the NHLBI campus; only Suburban Hospital meets this restriction.

WAH, which is approximately 9.2 to 10.8 miles and 15 to 22 minutes from the campus by car (the protester's and agency's calculations differ), challenges the proposed sole-source award on the basis that the geographical restriction is not warranted. WAH asserts that its facilities are close enough to the NHLBI campus for the program to succeed, and that it would bring other benefits to the program--such as its experience as a leading cardiac-surgery institution and the fact that, unlike Suburban Hospital, it has existing facilities--that, overall, would make it a better choice than Suburban Hospital.

A contracting agency has the primary responsibility for determining its minimum needs and the best method of accommodating them. Daniel Tech., Inc., B-288853, Dec. 13, 2001, 2001 CPD ¶ 203. An agency properly may restrict a procurement to offerors within a specified area if it shows that the restriction is reasonably necessary for the agency to meet its needs. Imperial 400 Motor Inn, B-227270, Aug. 21, 1987, 87-2 CPD ¶ 192.

NHLBI has shown that the geographical restriction here is necessary to meet its needs. Key to the CTSB that the agency has in mind is the concept--based on the academic model--of a medical campus, where close proximity of the hospital and laboratory will facilitate the close daily interaction between NHLBI personnel, hospital personnel and patients that is necessary to permit the desired intellectual integration between basic science, clinical investigations and patient care. More specifically, it is intended that the surgeons in the laboratory will collaborate with the basic investigators in the Division of Intramural Research in the NHLBI building. The research products will then be translated into clinical investigations at the collaborating hospital in a "bench-to-bedside" approach. Draft Justification for Other than Full and Open Competition at 2. The agency explains that the typical work day of the lead cardiothoracic surgeon will involve multiple trips between the hospital and the laboratory, with the lead surgeon typically beginning the work day in the laboratory, traveling to the hospital to conduct patient rounds and perform clinical investigations during surgery, returning to the laboratory to spend time with the research team, returning to the hospital to see patients, and then ending the day at the laboratory. Agency Report (AR) at 7. In addition, meetings with other investigators, collaborators and staff will occur daily and require the surgeon to move from the clinical area to the research facility in a timely fashion. AR at 11. It is the agency's view that this ongoing and frequent interaction between the scientists,

clinicians and patients will bring basic science changes in surgery into clinical practice more quickly through an integrated research approach. AR at 11.

The agency has reasonably established both that (1) it has a need for the participants in the CTSB to have quick access to other participants, patients, and the research laboratory--indeed, this appears to be a driving force behind the agency's decision to establish a CTSB, and (2) that the small geographic area in which the hospital may be located--essentially, within walking and 5-minute driving proximity to the agency's existing facilities--is reasonably related to that need; the benefits inherent in such an arrangement would be diminished if the hospital were at a greater distance from the agency's facilities. While the protester may be correct that it holds certain advantages over Suburban Hospital with regard to cardiac surgery, the decision whether to pursue those advantages in lieu of proximity of the partnering hospital to its facilities involves the agency's judgment as to its minimum needs. Simply put, the agency has determined that proximity is a greater need, and there is no basis for us to conclude that this determination was unreasonable. See Vicksburg Fed. Bldg. Ltd. P'ship, B-230660, May 26, 1988, 88-1 CPD ¶ 515 (geographical restriction is reasonable where necessary to minimize travel time between buildings where occupants of the buildings work closely together). WAH asserts that the purported need for proximity is a matter of mere administrative convenience. We disagree. The need is based on the nature of the work the agency hopes to accomplish under the program, not the convenience of agency personnel. We conclude that the geographical restriction is unobjectionable.

The protest is denied.

Anthony H. Gamboa
General Counsel