

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

PERSONAL ENRICHMENT THROUGH)
MENTAL HEALTH SERVICES, INC.,)
)
Petitioner,)
)
vs.) Case No. 01-3847BID
)
DEPARTMENT OF JUVENILE JUSTICE,)
)
Respondent,)
)
and)
)
FLORIDA YOUTH ACADEMY, INC.,)
)
Intervenor.)
_____)

RECOMMENDED ORDER

Pursuant to notice, the Division of Administrative Hearings, by its designated Administrative Law Judge, Lawrence P. Stevenson, held a formal hearing in this case on October 25, 2001, in Tallahassee, Florida.

APPEARANCES

For Petitioner: Andrea V. Nelson, Esquire
The Nelson Law Firm, P.A.
251 East Harrison Street
Suite 300
Tallahassee, Florida 32301

For Respondent: Richard M. Coln, Esquire
Department of Juvenile Justice
2737 Centerview Drive
Tallahassee, Florida 32399-3100

For Intervenor: Mark S. Levine, Esquire
Levine and Stivers
245 East Virginia Street
Tallahassee, Florida 32301

STATEMENT OF THE ISSUE

Whether Respondent's proposed decision to award a contract to Florida Youth Academy, Inc., pursuant to Request for Proposals No. F4G01, is contrary to Respondent's governing statutes, rules, or policies or the proposal specifications.

PRELIMINARY STATEMENT

On June 19, 2001, Respondent, Department of Juvenile Justice (the "Department"), issued a Request for Proposals ("RFP") for a moderate risk residential program in Pinellas County for 30 female offenders. Petitioner, Personal Enrichment Through Mental Health Services, Inc. ("PEMHS"), and Florida Youth Academy, Inc. ("FYA") submitted proposals. On July 24, 2001, the Department opened the proposals and commenced the evaluation process. On August 31, 2001, the Department posted its scoring tabulations and recommended the contract be awarded to FYA. On September 14, 2001, PEMHS filed a formal written protest of the recommended award.

The case was forwarded to the Division of Administrative Hearings for assignment to an administrative law judge on October 1, 2001. On October 19, 2001, PEMHS filed a motion for leave to amend its formal written protest, which motion was

granted by order dated October 23, 2001, without objection. On October 22, 2001, FYA filed a petition for leave to intervene, which was granted by order dated October 23, 2001.

As amended, the formal written protest raised four issues: that FYA did not submit the required Form PUR 7033 with its proposal and that the Department improperly waived that requirement; that the evaluation committee gave FYA points for a cooperative agreement and for organizational components that were not included in FYA's proposal; that one evaluator, Mary Mills, improperly changed her scores; and that FYA's proposal included false information regarding its experience in similar projects. A fifth issue, dealing with improper weighting of Certified Minority Business Enterprise ("CMBE") points, was settled by stipulation prior to the hearing.

At the final hearing, Petitioner presented the testimony of Genanne Wilson, Mary Mills, Nicholas Lefrancois, and Craig Chown, all employees of the Department, and of Patricia Daly, an employee of PEMHS. Petitioner also submitted the deposition testimony of Jennifer Gallman of the Department, as well as the deposition testimony of Genanne Wilson, Mary Mills, and Craig Chown. Petitioner's Exhibits 1 through 25 were admitted without objection. Neither the Department nor the Intervenor presented any testimony or offered any exhibits.

The parties agreed to file their proposed recommended orders ten days after the Transcript was filed. The Transcript was filed on November 8, 2001. The parties timely filed their Proposed Recommended Orders, which have been considered in rendering this Recommended Order.

FINDINGS OF FACT

1. On June 19, 2001, the Department issued and advertised RFP No. F4G01 for the design, implementation, and operation of a moderate risk residential program with a daily capacity of 30 youthful female offenders who have been committed to the Department after having been assessed and classified as a medium risk to public safety. This was an on-going program, and PEMHS was the incumbent contractor.

2. PEMHS and FYA submitted proposals, which were opened on July 24, 2001. Three qualified agency employees, Mary Mills, Nicholas Lefrancois, and Jennifer Gallman, were given the assignment of evaluating the proposals in accordance with the requirements of the RFP and an evaluation score sheet providing evaluation and scoring criteria. The evaluators worked separately and returned their completed score sheets to Genanne Wilson, the contract administrator who developed the RFP. Ms. Wilson tabulated the scores.

3. On August 31, 2001, the Department posted the tabulations for the RFP, recommending the contract be awarded to

FYA. FYA received 328 points, and PEMHS received 288 points. FYA's score was corrected to 303 points when it was discovered that Ms. Wilson had applied an incorrect weighting factor to the points awarded FYA for CMBE participation. The correction did not affect the outcome of the process.

4. PEMHS filed a formal written protest on September 14, 2001, and an amended formal written protest on October 19, 2001.

5. Section L of the RFP set forth the proposal award criteria. Subsection L.1 described the RFP's sole "Fatal Item" as follows:

Fatal Item A proposal with a "no" response to the following question shall be rejected without further consideration. Did the Offeror submit an original, signed State of Florida, Request for Proposal, Contractual Services Acknowledgment Form (PUR 7033)?

_____ Yes _____ No

If the above item is marked "NO" the evaluation of this proposal will STOP!

6. The referenced Form PUR 7033 is prescribed by the Department of Management Services, Division of Purchasing, for inclusion in all agency RFPs. Rule 60A-1.002(7)(c), Florida Administrative Code. The form lists 17 separate General Conditions applicable to all contracts, provides potential vendors with information as to posting of proposal tabulations, and, most importantly, provides space for a manual signature by

an authorized representative of the prospective vendor, stating the vendor's assent to the following statement:

I certify that this Proposal is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a Proposal for the same services, supplies or equipment and is in all respects fair and without collusion or fraud. I agree to abide by all conditions of this Proposal and certify that I am authorized to sign this Proposal for the Proposer and that the Proposer is in compliance with all requirements of the Request for Proposal, including but not limited to, certification requirements. In submitting a Proposal to an agency for the State of Florida, the Proposer offers and agrees that if the Proposal is accepted, the Proposer will convey, sell, assign or transfer to the State of Florida, all rights, title and interest in and to all causes of action it may now or hereafter acquire under the Antitrust Laws of the United States and the State of Florida for the price fixing relating to the particular commodities or services purchased or acquired by the State of Florida. At the State's discretion, such assignment shall be made and become effective at the time the purchasing agency tenders final payment to the Proposer.

7. The vendor's manual signature on Form PUR 7033 binds the vendor to the terms of its proposal, should it prevail at the end of the evaluation process.

8. The RFP was made available to vendors via download from the Department's Internet web page. The web page allowed the downloading of the Form PUR 7033, but also allowed the downloading of a form similar but not identical to Form

PUR 7033. This second form included the language quoted above binding the vendor to its proposal and the space for the manual signature assenting to those terms, but did not include the 17 General Conditions found on the Form PUR 7033.

9. The proposal submitted by FYA employed the second form, not the Form PUR 7033. It included the manual signature of Dr. Devyani Desai, the president and chief executive officer of FYA, indisputably a person authorized to bind FYA to its proposal. PEMHS' protest contends that, given the strict language of the "Fatal Item" RFP term, FYA's proposal should have been rejected out of hand for failure to include the mandatory Form PUR 7033.

10. Genanne Wilson, the contract administrator, was the person charged with deciding whether the FYA proposal should be rejected. She consulted a Department attorney, who advised her that the second form was acceptable and met the criterion for submission of a Form PUR 7033.

11. Based on that advice, Ms. Wilson distributed the FYA proposal to the three evaluators for scoring. The evaluators' score sheets contained a space calling for them to confirm the presence of the Form PUR 7033, but the testimony at the hearing established that the evaluators relied on Ms. Wilson for that information. Mr. Lefrancois testified that he assumed he would

not have received the proposals for evaluation at all had they not contained the Form PUR 7033.

12. The seventeen General Conditions set forth on Form PUR 7033 are commonly referred to as the "boilerplate" language included in any contract issued pursuant to an RFP. They include the terms of submission and opening of proposals, bid protest procedures, terms of invoicing and payment, conflict of interest notices, public records requirements, and contractual restrictions regarding assignment, default, advertising, liability, and cancellation.

13. All of the substantive areas of the General Conditions were set forth in substance, if not precisely the same form, within the RFP itself.

14. While pressing its claim that the literal language of the RFP should apply to disqualify FYA's proposal, PEMHS offered no evidence that FYA gained any competitive advantage by submitting the alternative form that it downloaded from the Department's own web site. No party contended that the submission of the alternative form would release FYA from any of the General Conditions.

15. The Department has modified Form PUR 7033 to include blank signature spaces to be signed in the event the bidder enters into a contract with the Department. PEMHS argued that FYA's failure to include the modified Form PUR 7033 meant that

FYA and the Department would be unable to finalize the contract by signature. PEMHS offered no statutory or rule citation that would require the contract to be executed on the modified Form PUR 7033, or that would prohibit the Department from drafting a separate document for the parties to sign in execution of their contract. Greg Chown, the Department's director of contracts, testified that the lack of a signature page in the bid documents would not prevent the Department from subsequently entering into a contract with a successful bidder.

16. In summary, FYA filled out and submitted a form provided by the Department. The form bound FYA to its proposal just as the Form PUR 7033 bound PEMHS to its proposal. FYA gained no competitive advantage by submitting the alternative form. The RFP labeled submission of the Form PUR 7033 a "Fatal Item," but the clear intent of this requirement was to ensure a firm commitment by the vendor, not to trap an unwary bidder who inadvertently downloaded the alternative form from the Department's own web page. The alternative form signed by FYA's president complied with the substance of the "Fatal Item" requirement.

17. In view of all the evidence, FYA's failure to submit a Form PUR 7033 was at most a minor irregularity, properly waived by the Department in the interest of preserving competition in a situation in which only two proposals were received.

18. Section K.3.3 of the RFP provided that the bidder must present "a letter of intent to enter into local interagency agreements required in program objectives: submit cooperative agreement(s) or contract(s) with local school districts describing the manner in which education services shall be provided in performance of this contract." PEMHS contended that one evaluator, Mr. Lefrancois, awarded FYA a "satisfactory" score of three points for this item despite the fact that FYA did not submit the required cooperative agreement or contract.¹

19. In response to Section K.3.3, FYA submitted a letter from Frank Potjunas, the supervisor of dropout prevention services for Pinellas County Schools. The letter, addressed to FYA's president, stated:

It has come to my attention that you are applying to the Department of Juvenile Justice to provide a 30 bed residential program for moderate risk girls at your Largo facility.

As a Pinellas County School administrator and a member of Florida Youth Academy's Advisory Council, I have spent many days at your program. I have worked closely with the FYA administration and staff and I am aware of the services and care you provide to at-risk youth.

I support your application, and if I can be of any further help please let me know.

20. PEMHS contended that the above letter did not constitute either a letter of intent or an actual contract as contemplated by Section K.3.3 of the RFP, and that Mr. Lefrancois therefore erred in awarding FYA three points for this item. PEMHS also pointed out that evaluator Mary Mills agreed that the FYA response was inadequate and that she awarded FYA only two points for this item.

21. The third evaluator, Jennifer Gallman, also awarded FYA three points for this item. She testified that a cooperative agreement signed by all parties would be an ideal submission, but that only the incumbent bidder can realistically be expected to have such an agreement in place. A bidder who does not enjoy the advantage of incumbency should demonstrate that it has made contacts within the community and enlisted support for its prospective program. Ms. Gallman was satisfied that the letter quoted above satisfied Section K.3.3 when read in conjunction with its accompanying text in the FYA proposal:

Florida Youth Academy intends to modify existing cooperative agreement [sic] with the Pinellas County School Board to provide onsite dropout prevention programming for these additional beds. There will be one classroom for every 19 youth. A letter of intent from Pinellas County School System is included in this submittal.

22. In summary, the issue raised by PEMHS regarding Section K.3.3 amounts to no more than a minor difference of

opinion among the evaluators. Two of the evaluators found FYA's response "adequate" and awarded three points. One of the evaluators found FYA's response "poor" and awarded two points. Either opinion is rational and defensible.

23. Nothing in the FYA response to Section K.3.3 or in the evaluators' scoring thereof merits a finding that the agency's actions were clearly erroneous, contrary to competition, arbitrary, capricious, or in contravention of the applicable rules, statutes, or the requirements of the RFP.

24. Section K.4 of the RFP, entitled "Organizational Capability," required the bidder to submit seven items:

1. An organization chart identifying relationships between dedicated program staff and corporate staff, along with a narrative detailing the capacity of program staff to accomplish program objectives.
2. A synopsis of corporate qualifications indicating ability to manage and meet performance objectives of the proposed program, including copies of corporate documents.
3. A plan to illustrate adequate internal administrative review and monitoring services to assure performance for the program.
4. A resume for each professional staff member to include name, position titles, certifications and qualifications of those providing service.
5. A staffing plan to include name, position titles, and weekly hours allocated to ensure quality service delivery.

6. Narrative description that outlines the arrangements that will be in existence at the time of contract award to rent, purchase or otherwise acquire the needed facilities, equipment or other resources required to perform the contract.

7. Narrative outlining the Offeror's ability to perform the contractual services taking into consideration any existing contracts with the Department, other state agencies or any other agency in which the Offeror has entered into a contractual relationship.²

25. PEMHS contended that FYA's proposal did not address items 3 and 5 of Section K.4, but that two of the evaluators nonetheless awarded FYA an "adequate" score of three points for this section, while the third evaluator awarded a "poor" score of two points. While FYA's proposal did not separately set out the "plans" referenced in items 3 and 5, a fair reading of the proposal as a whole could lead a rational evaluator to conclude that FYA addressed the substance of those items. As with the dispute over the scoring of Section K.3.3, this issue involves a minor difference of opinion among the evaluators as to the adequacy of FYA's response. Two of the evaluators, judging the proposal in its entirety, determined that FYA adequately addressed the requirements of Section K.4. One evaluator disagreed, finding the response "poor." Either opinion is rational and defensible.

26. Nothing in the FYA response to Section K.4 or in the evaluators' scoring thereof merits a finding that the agency's actions were clearly erroneous, contrary to competition, arbitrary, capricious, or in contravention of the applicable rules, statutes, or the requirements of the RFP.

27. PEMHS complained that evaluator Mary Mills changed her score for two items in her evaluation of PEMHS' proposal. The evidence established that in one instance, Ms. Mills lowered the score from three points to two. In the other instance, Ms. Mills raised the score from two points to three. The evidence further established that Ms. Mills made these changes on her own, prior to submitting her completed evaluation to Ms. Wilson. In each instance, her completed review of the entire PEMHS proposal caused Ms. Mills to reconsider the score she had preliminarily awarded. PEMHS failed to establish that Ms. Mills did anything inconsistent with the duties of a conscientious evaluator.

28. Finally, PEMHS alleged that FYA submitted false information concerning its past performance. Section K.4.1 of the RFP set forth the requirement for documentation of past performance:

The Offeror shall submit documentation to support the following:

1. An established history of program implementation within the fiscal constraints of any previous contracts.
2. Achieved measurable results in educational achievements by participants.
3. Satisfactory or higher ratings in a similar program Quality Assurance Evaluation.
4. Involvement by the community in which the program is located indicating the community's support for the continuation of the program, such as local boards, volunteers, local financial or in-kind support, and support by local governmental organizations.
5. Any documentation to support the program's recidivism rates for clients served.

29. The corresponding section of the score sheet provided a possible five points for each of the five aspects of past performance listed in Section K.4, for a possible total of 25 points. Each of the evaluators awarded FYA an "adequate" score of three points for each of the items, except for the item corresponding to "satisfactory or higher ratings in a similar program Quality Assurance Evaluation." For this item, Mr. Lefrancois and Ms. Gallman awarded FYA a "very good" score of four points. Each of them noted that the superior rating on this item was based on FYA's having operated other programs that had achieved "deemed" status, the highest rating available under Quality Assurance Evaluations conducted by the Department.

30. PEMHS alleged that the experience claimed by FYA in its proposal is actually that of another company, Florida Health Facilities, L.P., the assets of which FYA acquired in 2000. PEMHS claims that it was misleading, if not actually false, for FYA to claim credit for accomplishments achieved prior to 2000, and that the evaluators' crediting FYA with those accomplishments fatally undermined the integrity of the procurement process.

31. Contrary to PEMHS' implication, FYA's proposal made no effort to disguise the facts. It stated, in pertinent part:

Dr. Devyani N. Desai is the President & CEO of Florida Youth Academy, Inc., which was formed in September 2000 to acquire Florida Health Facilities' business and property.
(p. 36)

* * *

Florida Youth Academy operates 132 beds at the Largo facility, which has received deemed status every year since 1998. It also leases Wilson Youth Academy facility at Land O'Lakes of 32 moderate risk beds. This facility has also received deemed status since 1999. Through the change of ownership FYA has retained all the key management personnel. (p. 37)

* * *

As noted in the Organizational Capability section of this proposal, FYA programs formerly owned and operated by Florida Health Facilities, L.P., has been [sic] a proven provider of female and female [sic] services for the State, and also the Circuit 6 service area. Along with general program

implementation, Florida Youth Academy has also been successful in maintaining financial stability and utilizing the per diem dollars within the constraints of the contract. The formalized report of the audit for year 2000 will be made available upon request. Examples of FYA's ability to provide quality program [sic] is outlined below:

FYA currently operates four treatment programs, with varying levels of care. The programs consist of 96 High Risk, 18 Moderate Risk, 18 Low Risk and additional 32 Moderate Risk program [sic] located in another county. Three of the four residential commitment programs have received excellent quality Assurance rating with deemed status results for a consecutive two-year period. (p. 37-38)

* * *

The facilities have received five year's [sic] of Quality Assurance surveying. Each year ongoing improvements have been evident through increasing scores and achievement of deemed status ratings. Since program development, all levels of care have been proven to be effective at implementing which [sic] meet and exceed QA standards. In the most recent survey of 2000, all the programs achieved and/or maintained deemed status reporting (p. 38)

* * *

The current programs at the facility of Florida Youth Academy were previously owned and operated by Florida Health Facilities, L.P. The programs have been operated consistently through change of ownership. The recidivism rate at FYA is below average for comparable programs. The most recent experience is 28% and 30% for High Risk and Moderate Risk programs respectively. (p. 38)

32. PEMHS' implication that FYA submitted false information is unfounded. As the quoted examples from its proposal indicate, FYA directly stated that it had acquired the assets of Florida Health Facilities in 2000, and emphasized that it had made strong efforts to maintain continuity of personnel and services during the transition. PEMHS offered no evidence to document that FYA has failed to maintain the documented quality of the "deemed" facilities it now owns. It was not arbitrary, capricious, or contrary to competition for the evaluators to accept FYA's representations as to the historical and continuing quality of the programs it acquired, absent any evidence to the contrary.

CONCLUSIONS OF LAW

33. The Division of Administrative Hearings has jurisdiction over the parties to and the subject matter of this proceeding. Section 120.57(3), Florida Statutes.

34. Pursuant to Section 120.57(3)(f), Florida Statutes, the burden of proof rests with PEMHS as the party protesting the Department's proposed contract award. Section 120.57(3)(f) further provides:

In a competitive-procurement protest, other than a rejection of all bids, the administrative law judge shall conduct a de novo proceeding to determine whether the agency's proposed action is contrary to the agency's governing statutes, the agency's rules or policies, or the bid or proposal

specifications. The standard of proof for such proceedings shall be whether the proposed agency action was clearly erroneous, contrary to competition, arbitrary, or capricious. . . .

35. In State Contracting and Engineering Corporation v. Department of Transportation, 709 So. 2d, 607, 609, (Fla. 1st DCA 1998), the First District Court of Appeal opined on the role of the administrative law judge in a bid protest proceeding and stated:

[T]he phrase "de novo hearing" is used to describe a form of intra-agency review. The judge may receive evidence, as with any formal hearing under section 120.57(1), but the object of the proceeding is to evaluate the action taken by the agency. See Intercontinental Properties, Inc. v. State Department of Health and Rehabilitative Services, 606 So. 2d 380 (Fla. 3d DCA 1992) (interpreting the phrase "de novo hearing" as it was used in bid protest proceedings before the 1996 revision of the Administrative Procedure Act).

36. PEMHS claims that FYA's proposal should have been rejected at the outset for failure to comply with Subsection L.1 of the RFP, the "Fatal Item" requirement. The evidence established that FYA's proposal substantially complied with Subsection L.1. PEMHS offered no rationale or evidence establishing that FYA obtained a competitive advantage by submitting the alternative form that it downloaded from the Department's web page. The Department's acceptance of the

alternative form was consistent with the goal of ensuring a competitive procurement process.

37. PEMHS claims that the evaluators erred in their scoring of Sections K.3.3 and K.4. PEMHS offered no evidence to demonstrate that the evaluators' actions were contrary to the agency's governing statutes, rules or policies, or the specifications of the RFP. There were minor disagreements in the scoring, but the evaluators' scoring decisions were rational on both sides of the disagreement. PEMHS essentially urges this tribunal to conduct its own evaluation of the proposals in order to arrive at the "correct" score for the contested items. Such an evaluation is outside the scope of the de novo review authorized by Section 120.57(3)(f), Florida Statutes. See Moore v. Department of Health and Rehabilitative Services, 596 So. 2d 759, 761 (Fla. 1st DCA 1992)(rejecting hearing officer's de novo evaluation of bids, even with the agency's acquiescence).

38. PEMHS challenges the changes in scores made by evaluator Mary Mills, but failed to offer any evidence that these changes were anything other than the actions of a conscientious evaluator re-thinking her preliminary conclusions after completing her review of the entire proposal.

39. Finally, PEMHS claims that FYA submitted false information in its proposal, claiming credit for another company's accomplishments. FYA's proposal fully disclosed that

it acquired the assets of Florida Health Facilities, L.P., in 2000, and emphasized FYA's extensive efforts to maintain the level of quality attained by its predecessor. PEMHS offered no evidence to show that the representations made by FYA in its proposal were false. Absent such a showing, it was within the evaluators' discretion to accept those representations and to score the proposal accordingly.

40. PEMHS has failed to establish that the Department's intent to award the contract to FYA was contrary to the Department's governing statutes, rules or policies or the RFP. The Department's actions were not clearly erroneous, contrary to competition, arbitrary, or capricious.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that a final order be entered awarding the contract for a moderate risk residential program in Pinellas County for 30 female offenders, pursuant to RFP No. F4G01, to Florida Youth Academy, Inc., and dismissing the protest of Personal Enrichment Through Medical Services, Inc.

DONE AND ENTERED this 29th day of November, 2001, in
Tallahassee, Leon County, Florida.

LAWRENCE P. STEVENSON
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675 SUNCOM 278-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 29th day of November, 2001.

ENDNOTES

1/ On each relevant item, the evaluators awarded a score ranging from zero to five points. Zero was awarded where the bidder did not address a given program component. One point was awarded for an "unsatisfactory" response containing errors or omissions in major areas of a program component, failing to demonstrate the bidder's ability to provide the service, or demonstrating a lack of understanding of the technical specifications. Two points were awarded for a "poor" response that either failed to meet technical specifications or failed to provide sufficient information to substantiate the bidder's ability to provide the service. Three points were awarded for an "adequate" response, one that met all technical specifications. Four points were awarded for a "very good" response, one that not only met the technical specifications but was comprehensive and complete in every detail and contained some innovative details for some of the program components. Five points were awarded for an "excellent" response, one that exceeded all technical specifications and was "innovative, comprehensive, and complete in every detail."

2/ As set forth in the RFP, the quoted language contained several misplaced semicolons. These have been deleted without notation in the text.

COPIES FURNISHED:

Andrea V. Nelson, Esquire
The Nelson Law Firm, P.A.
251 East Harrison Street
Suite 300
Tallahassee, Florida 32301

Richard M. Coln, Esquire
Department of Juvenile Justice
2737 Centerview Drive
Tallahassee, Florida 32399-3100

Mark S. Levine, Esquire
Levine and Stivers
245 East Virginia Street
Tallahassee, Florida 32301

William G. Bankhead, Secretary
Department of Juvenile Justice
Knight Building
2737 Centerview Drive
Tallahassee, Florida 32399-3100

Robert N. Sechen, General Counsel
Department of Juvenile Justice
Knight Building
2737 Centerview Drive
Tallahassee, Florida 32399-3100

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 10 days from the date of this recommended order. Any exceptions to this recommended order should be filed with the agency that will issue the final order in this case.