



Decision

Matter of: Florida State College at Jacksonville

File: B-402656

Date: June 24, 2010

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DIGEST

Protest alleging that a task order for training support services is outside the scope of the SeaPort Enhanced (Seaport-E) multiple-award, indefinite-delivery/indefinite-quantity contracts is denied, since the Seaport-E contracts included technical training support.

DECISION

Florida State College at Jacksonville (FSC), of Jacksonville, Florida protests the decision of the Department of the Navy, to obtain certain training services currently being provided by FSC at the Great Lakes Training Center, Illinois through task order solicitation No. N00024-10-R-3019 issued under the SeaPort Enhanced (Seaport-E) multiple-award, indefinite-delivery/indefinite-quantity (ID/IQ) contracts. FSC, which is currently providing the services to the Navy and which does not hold a Seaport-E contract, argues that the training services at issue here do not fall within the scope of the Seaport-E contracts.

We deny the protest.

BACKGROUND

The Seaport-E multiple-award ID/IQ contracts were established by the Naval Sea Systems Command (NAVSEA) “to facilitate performance-based service acquisition, leverage buying power, improve business intelligence and reduce cycle time.”

Agency Report, Tab 1, Seaport-E Statement of Work (SOW) § C-1.1. NAVSEA provides for periodic “rolling admissions” for firms to be awarded Seaport-E multiple-award contracts. There are currently more than 1,800 contractors holding Seaport-E contracts.

The contracts provide for the issuance of task orders by NAVSEA, Naval Air Systems Command, Space and Naval Warfare Systems Command, Naval Supply Systems Command, Military Sealift Command, Naval Facilities Command, Strategic System Programs, Office of Naval Research and the United States Marine Corps. The scope of these contracts is to “provide services that potentially span the entire spectrum of mission areas supported by the activities and technical capabilities that comprise the various ordering offices, as well as provide professional support services to the overall Navy, and Marine Corps organizations” within 22 identified functional areas. Id.

Among the 22 enumerated functional areas is “Training Support.” Id. § 1.2.18. The SOW identifies two categories of training support: (1) technical training support and (2) professional development and training support. Id. § 1.3.18. Technical training support is described as follows:

This functional area consists of applying the engineering and analytical disciplines required to ensure that the warfighter and technical support community is provided with adequate instruction including applied exercises resulting in the attainment and retention of knowledge, skills, and attitudes regarding the platforms, systems, and warfighting capabilities they operate and maintain.

Id. § 3.18.1.

Since October 23, 2006, FSC has held a contract with the Fleet Industrial Supply Center (FISC), Norfolk, Virginia, within the Naval Supply Systems Command, to provide a wide array of training services at the Great Lakes Training Center. Among the services provided under FSC’s contract are training courses for the Center for Naval Engineering, the Center for Surface Combat Systems (CSCS), the Center for Personal Development, the Center for Naval Leadership, the Center for Information Dominance, and the Recruit Training Center.

The only training that the Navy intends to transfer to the Seaport-E ID/IQ contract—from FSC’s current contract—is the CSCS training, consisting of apprentice technical training, “A” schools, and “C” schools.¹ Apprentice technical training teaches engineering and analytical disciplines that provide the first building blocks, primarily

¹ CSCS technical training, including “A” school and “C” school training, is also provided at locations other than Great Lakes. Hearing Transcript (Tr.) at 136.

in electricity and electronics, to provide the fundamental knowledge needed for “A” school. Tr. at 128, 132. An “A” school teaches sailors the technical aspects of many of the specific platforms and systems they will encounter in the fleet; for example, “in say gunner’s mate A school [GM A] school, how do we use those electronic circuits in a major caliber gun?” Tr. at 133. A “C” school is for advanced technical training for specific platforms and systems. Tr. at 134.

At approximately the same time as FSC received its current contract in 2006, the contracts division of the Naval Surface Warfare Center, Dahlgren Division (NSWCDD), NAVSEA, Dahlgren, Virginia, placed a task order for CSCS training support under the Seaport-E contract, but did not include the CSCS training at Great Lakes. Tr. at 96. The NSWCDD issued this task order at the request of the Naval Educational and Training Command (NETC), of which CSCS is part, because NETC does not have internal contracting capability. Tr. at 22. Navy witnesses testified that the Navy did not then consider placing the CSCS work that FSC provides at Great Lakes under the SeaPort-E contract because the NSWCDD contracting office was unfamiliar with the work at Great Lakes and the CSCS program was just getting started. The Navy witnesses testified that this was not an “intentional” decision, but was simply the result of the FSC contract with FISC being “in the pipeline” and CSCS being newly organized. Tr. at 20-22, 26-27, 59-61.

On October 20, 2009, CSCS informed NSWCDD of the requirement for continuing CSCS training support services. After a review of FSC’s current contract for training at Great Lakes and the courses provided thereunder, the Navy determined that each of the CSCS courses provided under the FSC contract fit within the definition of technical training in the SeaPort-E contract.² Tr. at 143-44. The Navy thus decided to include the Great Lakes CSCS training under the Seaport-E contract as part of a larger follow-on task order for CSCS training. Tr. at 145. The Navy witnesses testified that this was the first logical opportunity to roll CSCS technical training into a single procurement vehicle. Tr. at 59-60.

NSWCDD issued an advance notice of the solicitation on November 3, 2009. Agency Report, Tab 3, Advance Notice of Task Order Solicitation No. N00024-10-R-3019. The agency issued the solicitation on February 17, 2010, to acquire the training support services for CSCS, including those at Great Lakes. This protest followed.

DISCUSSION

FSC argues that the technical training being provided at Great Lakes is outside the scope of the SeaPort-E contract. Specifically the protester contends that the CSCS

² The Navy also noted that many of the non-CSCS training courses provided under the FCS contract could not be acquired under the Seaport-E contract because they were not technical in nature. Tr. at 143.

training at Great Lakes is technical training at the apprentice level, and not the more complex technical training anticipated by the SeaPort-E contract.

Under the Federal Acquisition and Streamlining Act of 1994, as modified by the National Defense Authorization Act of Fiscal Year 2008, our Office is authorized to hear protests of task orders that are issued under multiple-award contracts (or protests of the solicitations for those task orders) where the task order is valued in excess of \$10 million, or where the protester asserts that the task order increases the scope, period, or maximum value of the contract under which the order is issued. 10 U.S.C. § 2304c(d) (2006); 10 U.S.C.A § 2304c(e)(B) (2009); Innovative Techs. Corp., B-401689 et al., Nov. 9, 2009, 2009 CPD ¶ 235 at 6. Task orders that are outside the scope of the underlying multiple-award contract are subject to the statutory requirement for full and open competition set forth in the Competition in Contracting Act of 1984 (CICA), absent a valid determination that the work is appropriate for procurement on a sole-source basis or with limited competition. 10 U.S.C. § 2305(a)(1)(A)(i) (2006); DynCorp Int'l LLC, B-402349, Mar. 15, 2010, 2010 CPD ¶ __ at 6

When a protester alleges that the issuance of a task or delivery order under a multiple-award contract is beyond the scope of the contract, we analyze the protest in essentially the same manner as those in which the protester argues that a contract modification is outside the scope of the underlying contract. DynCorp Int'l LLC, supra. In determining whether a task order or delivery order is outside the scope of the underlying contract, and thus falls within CICA's competition requirement, our Office examines whether the order is materially different from the original contract, as reasonably interpreted. Evidence of a material difference is found by reviewing the circumstances attending the original procurement; any changes in the type of work, performance period, and costs between the contract as awarded and the order as issued; and whether the original solicitation effectively advised offerors of the potential for the type of orders issued. In other words, the inquiry is whether the order is one which potential offerors would have reasonably anticipated. Symetrics Indus., Inc., B-289606, Apr. 8, 2002, 2002 CPD ¶ 65 at 5.

In our view, the record demonstrates that the CSCS classes currently provided under the FSC contract at Great Lakes are clearly technical in nature. However, the protester argues that these classes are essentially community college-level courses that teach fundamentals, such as fundamental electronics and electrical theory, and thus do not meet the SeaPort-E definition of "technical training support" because these classes are not tied to specific "platforms, systems, [or] warfighting" capabilities. Protester's Hearing Comments at 13.

While the record shows that some of the CSCS classes under FSC's contract are for apprentice technical training, other CSCS classes include "A" school and "C" school training, which are more closely focused on specific platforms, systems and

warfighting capabilities.³ As noted by the agency, the “A” school training may be the last classroom technical training a sailor receives before joining the fleet and operating communications, navigation and weapons systems. Tr. at 41, 134, 170. As to apprentice technical training the agency reasonably explains this training is focused on the fundamentals that are needed as a prerequisite for the “A” school and “C” school training, such as electricity and electronics, and “hands on” training about the use of basic equipment, such as amplifiers, multimeters, oscilloscopes, signal generators, and circuit cards. Tr. at 128, 132-33, 164-65. A Navy witness explained that they view this training as “a pyramid starting with [apprentice technical training], and [continuing with] the focus of how we take those fundamentals and apply them to different components of naval weapon systems all the way through the specialized C schools.” Tr. at 165.

Based on our review of the record, we find the agency has reasonably established that the CSCS training in FSC’s contract, including the apprentice technical training, is technical training as defined under the Seaport-E contract. The Navy has also reasonably explained why this integrated CSCS training is “required to ensure that the warfighter and technical support community is provided with adequate instruction” that is related to the Navy’s “platforms, systems, and warfighting capabilities.” AR, Tab 1, Seaport-E SOW § 3.18.1. Contrary to FSC’s arguments, a reasonable reading of the technical training support described in the Seaport-E SOW does not limit this support to classified training focused exclusively on a particular system or platform.⁴

Given the broad scope of the Seaport-E contract, FSC could have reasonably anticipated that the CSCS technical training that FSC was conducting at Great Lakes could be obtained through task orders issued against the SeaPort-E ID/IQ contracts. Moreover, as discussed, the NSWCCD placed a well publicized task order for CSCS training under the SeaPort-E contract in 2006. In the four years since then, FSC could have applied for an award of a SeaPort-E contract, which—as explained above—

³ It appears that FSC no longer argues that the “A” school and “C” school CSCS training is outside the scope of the FSC contract because its post-hearing comments focus almost exclusively on apprentice technical training.

⁴ FSC also argues that because the CSCS and NETC are not eligible “ordering offices” designated in the Seaport-E SOW, the FSC CSCS work cannot be considered within the scope of the Seaport-E contract. AR, Tab 1, Seaport-E SOW § C-1.1. We find this argument to be without merit. The task order competition is being conducted by NSWCCD, which is part of NAVSEA, one of the listed ordering offices and this procurement is related to NAVSEA’s mission. In addition, not only does the Seaport-E SOW expressly provide that scope of the contract includes the “entire spectrum of mission areas” of the ordering offices, but it also includes “professional support services to the overall Navy.” Id.

contemplates rolling admissions, so as to be eligible for an award of the CSCS task order.⁵

The protest is denied.

Lynn H. Gibson
Acting General Counsel

⁵ FSC also argues that the task order solicitation at issue here fails to comply with the Service Contract Act by not incorporating the collective bargaining agreement applicable to incumbent instructors. Under our Bid Protest Regulations, only an interested party may protest a federal procurement. That is, a protester must be an actual or prospective offeror whose direct economic interest would be affected by the award of a contract or the failure to award a contract. Bid Protest Regulations, 4 C.F.R. § 21.0(a) (2010). Because FSC does not hold a Seaport-E ID/IQ contract, it is not an interested party eligible to protest the contents of the task order solicitation. Outdoor Venture Corp., B-401628, Oct. 2, 2009, 2009 CPD ¶ 200 at 5 n.2.