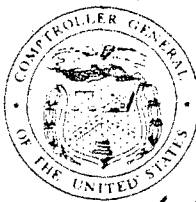


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**DECISION**



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

*[Protest Alleging That Proposed Awardee Is Ineligible Bidder]*

FILE: B-199102

DATE: October 17, 1980

MATTER OF: Pikes Peak Community College

**DIGEST:**

1. GAO does not review affirmative determinations of bidder's responsibility absent showing of fraud or allegation that definitive responsibility criteria have not been applied.
2. Solicitation provision which requires prospective awardee to provide documentation to show that it is accredited by "appropriate regional or state associations" prior to award constitutes definitive responsibility criterion which must be met by bidder as prerequisite to affirmative responsibility determination.
3. Bidder may be found to comply with definitive responsibility criterion where bidder demonstrates level of achievement equivalent to that specified; under circumstances, accreditation from recognized national organization which accredits business colleges may be viewed as equivalent to accreditation from regional association.

Pikes Peak Community College (Pikes Peak) protests the proposed award of a contract to the low bidder, Johnson & Wales College (J&W), under invitation for bids (IFB) No. DABT01-80-B-0075-4 issued by the Department of the Army, Fort Rucker, Alabama. Pikes Peak is the second low bidder.

Pikes Peak contends that J&W is an ineligible bidder because it does not meet the requirement of section C-11 of the solicitation, which provides as follows:

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"The contractor shall be an educational institution accredited by appropriate regional or state associations which normally supervise the accrediting procedures of educational institutions within their jurisdiction."

Pikes Peak states that J&W is not accredited by the New England Association of Schools and Colleges, which the protester alleges is the regional accrediting association having jurisdiction over Rhode Island, where J&W is located. PL 05367

The Army acknowledges that J&W is not accredited by the New England Association of Schools and Colleges. The Army nevertheless finds that J&W does meet the requirement of section C-11 because J&W is accredited by the Association of Independent Colleges and Schools (AICS), which is national in scope and grants institutional accreditation to schools and colleges of business. 7

In addition, J&W argues that due recognition must be given to what J&W views as the overall purpose and intent of the IFB requirement. J&W asserts that the Army is simply seeking assurance that the contractor is competent and qualified to do the job, and points out that even the protester admits there can be no question concerning the qualifications and competence of J&W to perform the contract.

We note that as a prerequisite to award, the solicitation requires that an institution provide the documentation necessary to establish that it holds the required accreditation. Thus we agree with J&W that the accreditation requirement relates to the ability and capacity of J&W to perform. As such, Pikes Peak's allegation that J&W does not meet the accreditation requirement essentially questions the Army's affirmative determination of J&W's responsibility. Peter Gordon Company, Inc., B-196370, July 18, 1980, 80-2 CPD 45.

This Office does not review affirmative determinations of responsibility except where the protester alleges fraud or bad faith on the part of the procuring officials or where the solicitation contains definitive responsibility criteria which allegedly have not been applied. Peter Gordon Company, Inc., supra; Alexandria Packaging, Inc., B-197176, January 11, 1980, 80-1 CPD 37. We believe that the IFB's requirement, to document the requisite accreditation prior to award is a

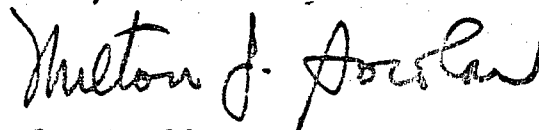
definitive responsibility criterion so that our review is appropriate. See Crane Inspection and Certification Bureau, Inc., B-138192, March 24, 1977, 77-1 CPD 211.

Definitive responsibility criteria involve specific and objective responsibility criteria, compliance with which is a prerequisite to contract award. J. Baranello and Sons, 58 Comp. Gen. 509 (1979), 79-1 CPD 322; DOT Systems, Inc., B-193513, March 7, 1979, 79-1 CPD 160. Compliance, however, does not necessarily mean literal compliance with the specific letter of such criteria, as a bidder may demonstrate a level of achievement equivalent to that specified in the solicitation and thus may properly be deemed responsible. J. Baranello and Sons, supra; Haughton Elevator Division, Reliance Electric Corporation, 55 Comp. Gen. 1051 (1976), 76-1 CPD 294.

In this case Pikes Peak has not alleged that accreditation by the AICS rather than the New England Association of Schools and Colleges adversely affects J&W's capacity to perform the required services. Rather, Pikes Peak simply asserts that accreditation by a national association does not comply with the specific letter of the requirement that the contractor be accredited by an appropriate state or regional association. The Army finds, however, that accreditation by the AICS is equivalent to accreditation by the New England Association of Schools and Colleges for purposes of demonstrating J&W's ability and capacity to perform. Pikes Peak has provided no evidence to the contrary. Moreover, we note that AICS is recognized by the Department of Education as an accrediting organization for "postsecondary degree and non-degree granting institutions that are predominantly organized to train students for business careers," and that the institutions it accredits are eligible for a variety of Federal programs. 44 Fed. Reg. 4017, 4018 (1979). Since the contractor is to provide instruction in basic reading, spelling, arithmetical, writing, and speaking and listening skills (to 9th grade competency levels), we believe the Army reasonably could view the AICS accreditation as the equivalent of other accreditation with respect to the services required here, and thus we find no basis to disagree with the agency's responsibility determination.

We believe, however, that the IFB should have clearly stated that accreditation equivalent to that specified would be acceptable and that accreditation by a national association such as AICS would be so considered. We are recommending to the Secretary of the Army that in future procurements of this type, appropriate action be taken in this respect.

The protest is denied.



For the Comptroller General  
of the United States