

DECISION

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

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FILE: B-215853 **DATE:** December 3, 1984
MATTER OF: Operational Support Services AAS 00169

DIGEST:

Where invitation for bids for security guard services adequately explains agency needs and performance requirements, fact that agency has not detailed the number of supervisors and guard posts; the degree of supervision required of the project manager; and the manhours of coverage for posts does not render specifications inadequate for competition.

Operational Support Services protests the award of any contract by the Department of the Army, Fort Benning, Georgia, for guard services under invitation for bids (IFB) No. DABT10-84-B0124. Operational contends the specifications need to be clarified in order to allow bidders to compete on an equal basis.

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We believe the solicitation issued was adequate, and we therefore deny the protest.

The IFB was for protective guard services for the ammunition supply and vehicle holding areas, the forestry section storage area, funds transport, and school crossings at Fort Benning. The solicitation was a "follow-on" to a contract awarded in 1982 to Honor Guard Security for the same type services. Bid opening has been indefinitely postponed pending our resolution of the protest.

According to the protester, the specifications are vague and ambiguous in two areas. First, the protester contends that the IFB does not specify the degree of supervision required of the project manager, nor does it detail the estimated or actual number of supervisors required. Second, the protester maintains that the IFB

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does not specify the number of guard posts and the manhours of coverage for each post for the various areas covered by the IFB. The protester requests that the procuring agency be required to specifically detail these matters to allow bidding on an equal basis.

The Army generally contends that although the IFB does not specify the exact level and mix of personnel as well as establishing tours of duty, the solicitation provides a sufficient basis upon which a proper bid may be prepared. According to the agency, the specifications were designed to be performance oriented, allowing prospective contractors maximum flexibility to utilize their expertise with the government receiving the benefit. The agency maintains that the IFB changes requested by the protester would turn any resultant contract into a prohibited personal service contract, characterized by the employer-employee relationship it would create between the government and the contractor's personnel. See Federal Acquisition Regulation, § 37.104(b), 48 Fed. Reg. 43,102, 42,366 (to be codified at 48 C.F.R. § 37.104(b)); Department of Army Circular 235-1, para. 6-4(b) (1982).

The protester requested clarification of the solicitation's requirements in telephone conversations with the contracting officer on July 18 and August 2, 1984. The Army has answered the protester's specific contentions regarding specification vagueness as follows.

With regard to the degree of supervision required for the project manager and the number of supervisors required, the agency refers to paragraph 1.2.1, of the IFB Description/Specification/Work Statement, which requires that the project manager be on duty 0730-1630 hours, Monday through Friday excluding holidays; that the contractor designate an individual with authority to act in the absence of the project manager during duty hours and at times other than normal duty hours; that the contractor must determine what additional supervisory personnel are required; that one manager be physically present for duty at all times during normal duty hours; and that the supervisors are to be responsible for the accomplishment of all work required by the contract.

In response to the protester's contentions that the number of posts and hours of service are not provided for the ammunition supply installation (ASI), vehicle holding area (VHA) and forestry section storage areas, the Army points to paragraph 5.1.1, which requires service 24 hours a day, 7 days a week; paragraph 5.2.1, which requires that the ASI gate be guarded at all times; paragraph 5.2.2, which requires monitoring of the alarm panel in building No. 5991; paragraph 5.2.4, which requires the VHA gate be under visual observation at all times; paragraph 5.4.1, which specifies the number of vehicular perimeter checks/inspections for the ASI and VHA; paragraph 5.4.1.1, which specifies the number of vehicular internal area checks/inspections for the ASI and VHA; paragraph 5.4.1.2, which specifies the number of vehicular perimeter checks/inspections for the forestry section storage area; and paragraph 5.3.1.1, which specifies the conditions under which the number of guards must be increased at the VHA. The IFB also includes, as exhibit No. 2, maps which show the locations of the ASI and VHA gates, designating them as posts No. 1 and 2, respectively, and also shows the location of building No. 5991 outside of the ASI gate. The agency also points out that bidders were encouraged to make site visits.

The protester argues that the agency's explanations are not sufficient to dispel specification vagueness. For example, the protester maintains that the IFB 1) does not state whether supervisory duties may be concurrently performed by productive manpower; 2) does not state which posts are to be serviced 24 hours a day, 7 days a week; and 3) is inconsistent in that the requirement of paragraph 5.2.4 that the VHA gate be under visual observation at all times conflicts with paragraph 5.2.5, which states that the guard post located at the VHA gate shall change to a roving guard post within the VHA during non-duty hours. The protester suggests that a better method for IFB format in the protested areas would be to use the approach of paragraph 5.7 of the IFB, school crossing guards, where exact school crossing locations and times are designated by technical exhibit.

We find that the protester has not met its burden of affirmatively proving that the specifications lacked sufficient clarity to permit bidding on an intelligent and equal

basis. See Crimson Enterprises, Inc., B-209918.2, June 27, 1983, 83-2 CPD ¶ 24. A solicitation is not improper because the specifications do not give the exact details of performance which a contract will require. International Business Investments, B-203168, Aug. 12, 1981, 81-2 CPD ¶ 133. Rather, it is only required that the specifications be unambiguous and inform bidders of the minimum requirements of contract performance so that they may bid intelligently and based on equal information. Crimson Enterprises, Inc., B-209918.2, supra, 83-2 CPD ¶ 24.

Further, an ambiguity in a legal sense exists only where two or more reasonable interpretations of a solicitation are possible. Palmer and Sicard, Inc., B-192994, June 22, 1979, 79-1 CPD ¶ 449. We fail to see how the IFB's failure to specifically detail the exact number of supervisors and guards, the manhours and the supervision required for supervisors rendered the IFB ambiguous. Although the IFB did not specify the matters in the detail or format suggested by the protester, it did not conceal the performance requirements in the protested areas. A bidder preparing a bid could have reasonably interpreted the IFB requirements when read as a whole in only one way. That is, it is clear from the IFB that 1) the successful bidder is not precluded from having supervisory personnel assume other duties so long as those duties can be accomplished within the parameters of the solicitation; 2) guard posts are required at the ASI and VHA gates and for the vehicular mounted perimeter and internal area checks; 3) another guard is required to monitor the alarm panel in building No. 5991 since the building is separate from the guard post; 4) the ASI gate is to be guarded at all times; 5) the VHA gate is to be under visual observation at all times; and 6) additional guard personnel are necessary at the VHA when the circumstances specified in the IFB are established.

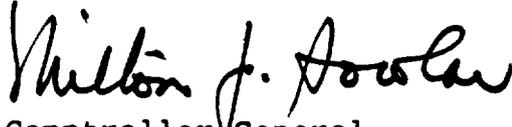
Although the description of VHA guard requirements could have been written more clearly, when the IFB (particularly sections 5.2 and 5.3) is read as a whole, we believe that it provides sufficient information to require that the VHA gate remain under the visual observation of guard personnel at all times, during even the non-duty hours of 1630 until 0730 when the ASI main gate is locked and the guard from the stationary post located at the VHA becomes a roving guard making internal area checks/inspections. Other than

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the specified frequencies given for internal area checks of the VHA, the specific method of accomplishing the VHA guard service is left to the discretion of the contractor.

In summary, we believe that the IFB documents, coupled with the opportunity for a site visit, provided adequate explanation for the Army's requirements and are adequate to permit competitive bidding.

The protest is denied.

for 
Comptroller General
of the United States