



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Days Inn  
**File:** B-236718; B-236718.2  
**Date:** December 13, 1989

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### DIGEST

Protest that awardee's lodging establishment is not within a 15-mile radius of the contracting activity as required by the solicitation is denied where the record indicates that agency conducted a pre-award survey of the incumbent low bidder for previous identical solicitation requirement and firm was found to meet the requirement.

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### DECISION

Days Inn protests the award of a contract under invitation for bids (IFB) No. DAKF15-89-B-0087, issued by the Department of the Army for lodging, meals, and transportation for Armed Forces applicants of the Military Entrance Processing Station (MEPS), Detroit, Michigan. Days Inn contends that the low bidder's facilities are located outside the acceptable area of consideration as defined by the IFB. In a separate submission, Days Inn alleges that the second-low bidder has engaged in improper bidding practices.

We deny the protest against the low bidder and dismiss the protest against the second-low bidder.

The IFB, which was issued July 21, 1989, contained a provision, "Area of Consideration," requiring that the contractor's lodging/meal establishment be located within a 15-mile radius of the Detroit MEPS. In addition, this provision warned that the contractor's lodging/meal establishment shall not be located within certain designated zones illustrated by a map provided in the solicitation and identified as technical exhibit 4. Days Inn submitted the third low bid by the August 21 bid opening, while Knights Inn submitted the low bid. The agency made award to Knights Inn, the incumbent, on August 24.

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Days Inn argues that the map identified as technical exhibit 4 became the definitive authority with respect to the area of consideration because, in addition to designating prohibited areas, it contained a line apparently representing the 15-mile radius described in the IFB. According to Days Inn, Knights Inn's establishment is outside the line drawn on the map. Moreover, the protester has provided commercial road maps to support its assertion that the Knights Inn facilities are located slightly more than 15 miles from MEPS.

The contracting officer states that a pre-award survey of Knights Inn was conducted in November 1988, prior to the award of the contract under the previous solicitation. The contracting officer asserts that the agency did not conduct a pre-award survey prior to award of the protested contract because the area of consideration and other specified terms and conditions were not changed by this solicitation, nor was the place of performance changed by the contractor. Moreover, in response to an inquiry from our Office regarding the claim that Knights Inn is not within the 15-mile radius, the agency has provided a statement from the Commander of MEPS, asserting that it was determined last year that Knights Inn was within a 15-mile radius of MEPS. In addition, the Commander states that on Dec 1, 1989, "we again drove to Knights Inn, clocking a 15.0-15.1 reading on our odometer using indirect surface streets."

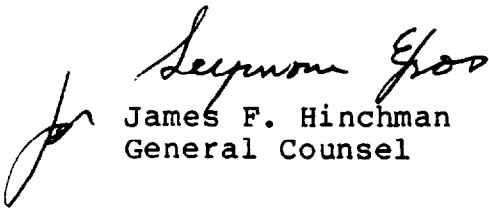
We believe that the evidence available concerning the distance of Knights Inn from MEPS was sufficient for the contracting officer to reasonably find that Knights Inn was within a 15-mile radius. While different maps conflict as to whether the facilities are within or slightly outside the 15-mile radius, the agency here made a prior site visit to the awardee's facility and determined that the awardee's establishment was in fact within the radius. Moreover, the Commander of MEPS stated that the agency measured the distance and recently verified the distance in response to our request. Consequently, we find that there was sufficient evidence from which the contracting officer could reasonably conclude that the awardee was in compliance with the requirement that the awardee's establishment be within a 15-mile radius of MEPS.

The protester nevertheless asserts that technical exhibit 4 is the definitive authority with respect to the area of consideration and that according to the line drawn on the map, Knights Inn is outside the area of consideration. We note that the IFB, in narrative form, explicitly provides that the contractor's establishment shall be located within a 15-mile radius of MEPS. Despite the map, the agency acted

properly in following the plain language of the solicitation which required that the establishment in fact be within a 15-mile radius of MEPS and reasonably concluded that the awardee was in compliance with the provision. In this regard, we note that the map was primarily employed to illustrate zones within the 15-mile radius in which the facilities could not be located. We therefore deny this protest ground.

Since we find that the agency reasonably determined that the low bidder met the solicitation requirement, we need not review the merits of the protester's challenge to the bid of the second-low bidder. 4 C.F.R. §§ 21.0(b), 21.1(a). See John Short & Assocs., Inc.; Comprehensive Health Servs., Inc., B-236266; B-236266.4, Nov. 9, 1989, 89-2 CPD ¶ \_\_\_\_. We therefore dismiss this protest.

The protest against the low bidder is denied and the protest against the second-low bidder is dismissed.

  
James F. Hinchman  
General Counsel