



Comptroller General
of the United States
Washington, D.C. 20548

114211

Decision

Matter of: Lionhart Group, Ltd.
File: B-257715
Date: October 31, 1994

Dale Hartley for the protester, Capt. Elizabeth DiVecchio Berrigan, and Col. Riggs L. Wilks, Jr., Department of the Army, Office of the Judge Advocate General, for the agency. Adam Vodraska, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Requirement that contractor be accredited, under an IFB for remedial/refresher education courses, is unobjectionable where the requirement was reasonably determined to be necessary to assure program quality and is in accord with Department of Defense policy.

DECISION

Lionhart Group, Ltd. protests the accreditation requirement under invitation for bids (IFB) No. DABT59-94-B-0017, issued by the Department of the Army for Functional Academic Skills and Training (FAST) courses at Fort Lee, Virginia.

We deny the protest.

The IFB solicited bids for four 50-day course cycles of classroom instruction (200 days total) in reading and mathematics under the FAST program for a base year with 2 option years. The FAST program is divided into two levels, the foundation level, which is designed to enable soldiers to master basic education skills from grade levels 5 through 9; and the refresher level, which encompasses grade levels 10 through 12.¹

¹According to the Army, soldiers are either selected or volunteer for the program based on low aptitude and diagnostic test scores.

In addition to classroom instruction, the contractor is responsible for providing the necessary instructional equipment; maintaining a complete and accurate record of academic work attempted or completed under the FAST program; making available to the government program syllabi, curricula, and instructor lesson plans; and ensuring that teachers and substitute teachers are available to meet daily classroom requirements. Curriculum development and materials for the refresher instruction are to be developed and furnished by the contractor after submission to and approval by the Army; materials for the foundation instruction are to be furnished by the Army.

Section C.1.2. of the IFB's Statement of Work, Qualification of Contractor, states "the contractor shall submit proof of a secondary or post-secondary accreditation by any of the following accrediting associations, and of charter by a State or Federal Government with offer." This proof is to be submitted with the bid. Section C.1.2. also lists 10 accrediting associations at the secondary and post-secondary level.

Lionhart is a for-profit educational organization, which is neither accredited, nor considered a college or secondary school. While not accredited, Lionhart asserts that it can provide qualified and licensed instructors, and could otherwise meet the IFB requirements. Lionhart argues that the accreditation requirement does not bear a reasonable relation to the services to be performed because the Army is not awarding degrees, giving academic credit, preparing and maintaining transcripts, developing curricula, or conducting scholarly research; which, arguably, only an accredited school could satisfactorily provide. Thus, Lionhart maintains that requiring accreditation overstates the government's needs and is irrelevant to whether the contractor can provide the instructional services called for in the solicitation. Lionhart points out that it has previously provided similar remedial/refresher courses under contract with the Army and that other installations use unaccredited contractors.

The Army states that it requires accreditation as a mandatory contract qualification in order to reduce unacceptable risks, such as uncertified teachers; nonexistent lesson plans; and substandard instructional materials, which have occurred at other installations due to unaccredited contractors. The Army notes that it has included a substantially similar accreditation requirement for its foundation level education contracts at Fort Lee since 1977, and that in the past other installations have had significant problems with unaccredited contractors providing educational services for the FAST program or its predecessor, the Basic Skills Education Program (BSEP).

The Army further notes that six of the nine Army educational services offices currently contracting for educational services demand accreditation, while the remaining three installations establish accreditation criteria for individual teachers but, unlike Fort Lee, use in-house computer based instructional materials and do not require contractors to develop instructional programs or other curricula.

Procuring agencies, not our Office, are in the best position to determine their minimum needs and how to accommodate them, and we therefore will not object to agency determinations in these respects unless they are shown to be unreasonable. G.H. Harlow Co., Inc., B-254839, Jan. 21, 1994, 94-1 CPD ¶ 29. We have previously held that a similar accreditation requirement under BSEP was not an unduly restrictive requirement, since it clearly bore a reasonable relationship to the services to be performed. School for Educ. Enrichment, B-199003, Oct. 16, 1980, 80-2 CPD ¶ 286. We found that the Army could reasonably determine that the accreditation requirement contributed to an effective program of instruction by promoting and maintaining program quality. Id.; see Richard M. Milburn High School, B-237337, Feb. 13, 1990, 90-1 CPD ¶ 188.

While the protester argues that certification of the individual instructors, as opposed to accreditation of the institution, is all that is actually necessary to satisfy the minimum needs of the government, the Army has determined that the success of the educational program depends not only upon competent certified teachers, but also upon an overall program of coordinated instruction, particularly with regard to subject matter and administration. Here, contrary to the protester's assertion, the contractor is responsible for more than supplying trained teachers--it must administer a comprehensive educational program--for example, in the refresher course, the contractor develops the curriculum and develops and furnishes educational materials. As noted by the agency, accreditation includes voluntary self-appraisal and peer review, and accrediting associations provide established educational criteria to evaluate school objectives and to sustain quality educational programs. See Loyola College and NonPublic Educ. Servs., Inc., a Joint Venture; Johnson & Wales College, B-205994.2, et al., May 16, 1983, 83-1 CPD ¶ 507. Accreditation also provides an impetus for continued improvement and can serve as an index of educational quality, while maintaining minimum education standards. Id.

Thus, the Army has shown that a reasonable relationship exists between the accreditation of the contractor and the provision of an effective program of instruction, including the promotion of program quality and its maintenance.

Accordingly, we do not view the accreditation requirement as unduly restrictive or beyond the minimum needs of the agency. As for Lionhart's assertion that other Army installations have not included accreditation requirements in their procurements for similar educational services, we note that each procurement stands on its own and the fact that other installations' judgments as to the necessity for accreditation may have been different does not establish the unreasonableness of the accreditation requirement here. See TLC Servs., Inc., B-255331, Feb. 22, 1994, 94-1 CPD ¶ 130.

In addition, the accreditation requirement in the IFB is consistent with Department of Defense (DOD) Directive 1322.8 (July 1987) "Voluntary Educational Programs for Military Personnel," para. D4, requiring voluntary education programs be geared to programs provided by institutions or organizations, including high schools, post-secondary vocational and technical schools, colleges, and universities, recognized by specified accrediting associations. Furthermore, Army Regulation 621-5, Army Continuing Education System, para. 2-7.b., states that "Secondary school accreditation may be required for . . . (non-degree bearing) programs" such as the FAST program.

The protest is denied.²


 Robert P. Murphy
 Acting General Counsel

²Lionhart also asserts that the solicitation should be set aside exclusively for small business concerns. Because Lionhart is not accredited and we have found that this IFB is reasonably restricted to organizations or institutions which are accredited, Lionhart is not an interested party to protest the contracting officer's determination regarding a set-aside. 4 C.F.R. §§ 21.0(a), 21.1(a) (1994).