



## Decision

**Matter of:** Omega World Travel, Inc.

**File:** B-258374

**Date:** January 13, 1995

Mark Pestronk, Esq., for the protester.

Theodore G. Lucas, Esq., Panama Canal Commission, for the agency.

Mary G. Curcio, Esq., and John Van Schaik, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

Protest that solicitation for a computerized electronic reservation and ticketing system is unduly restrictive of competition is sustained where agency has not provided a showing that a requirement that offerors have a universal bilateral ticket stock agreement, which is available only to airlines, is necessary to meet the agency's minimum needs.

### DECISION

Omega World Travel, Inc. protests the terms of request for quotations (RFQ) No. CNP-95513-LP-29, issued by the Panama Canal Commission for an airline reservation and ticketing system. According to Omega, the solicitation requirement that the awardee have a universal bilateral ticket stock agreement is unduly restrictive of competition.

We sustain the protest.

The RFQ was issued for the installation and use of a computerized electronic reservation and ticketing (ERT) system, including hardware and software, and maintenance and training for the Commission's Transportation Services Branch. The system will be used by Commission personnel to handle the Commission's airline transportation needs, including making reservations and purchasing tickets from United States flag carriers. The solicitation required the successful offeror to possess a universal bilateral ticket stock agreement and to provide the Commission with airline ticket stock in lieu of International Association of Travel Agent (IATA) ticket stock. The universal bilateral ticket stock agreement permits airlines that are parties to the agreement to issue tickets of other airlines.

Omega, a travel agency, complains that only airlines have universal bilateral ticket stock agreements. Omega explains that travel agencies have either IATA appointments or individual carrier ticket stock agreements instead, both of which permit travel agencies to issue tickets on all airlines. Omega explains that it is capable of supplying the required equipment by virtue of its contract with Covia Partnership, under which Omega purchases or leases the necessary equipment and licenses the necessary software. Omega asserts that if it were not for the requirement for a universal bilateral ticket stock agreement, it would be able to compete under the solicitation. Omega asserts that the restriction is not necessary for the Commission to meet its needs and is therefore unduly restrictive of competition in violation of the Competition in Contracting Act of 1984, 41 U.S.C. § 253(a)(1) (1983) and Federal Acquisition Regulation (FAR) § 10.002(a).

A procuring agency is required to specify its needs in a manner designed to promote full and open competition, and may only include restrictive provisions in a solicitation to the extent necessary to meet the agency's minimum needs. Pipeliner Sys., Inc., 73 Comp. Gen. 61 (1993), 93-2 CPD ¶ 343. FAR § 10.002. Where a protester challenges a specification as unduly restrictive of competition, it is the agency's responsibility to establish that the specification is reasonably necessary to meet its minimum needs. VION Corp., B-256363, June 15, 1994, 94-1 CPD ¶ 373.

In response to Omega's protest, the Commission points out that the solicitation requests an ERT system only, and not travel or transportation services. The agency asserts that it has used an ERT system since 1980 to make airline reservations and purchase tickets and that the continued use of a state-of-the-art ERT system is necessary for the efficient operation of the Commission's Transportation Services Branch. The agency also points out that under the Federal Travel Regulations (FTR) part 301-15, subpart A, it is precluded from directly procuring the services of a commercial travel agent. The Commission therefore argues that it could not amend the solicitation to request the services of a travel agent.

In addition, the Commission asserts that if it did obtain the ERT system under a contract with Omega, it would do so

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<sup>1</sup>Generally, an executive agency that desires the services of a commercial travel agent must obtain those services by participating in a Travel Management Center procured and administered by the General Services Administration (GSA) or request a delegation of authority from GSA to procure travel services directly. FTR § 301-15.3(b).

as the licensee of Omega, which is the licensee of Covia, which is the licensee of Apollo, which owns the system. The Commission contends that it does not want to be a third-level licensee with no contractual relationship to the owner of the ERT system.

The Commission argues that the requirement at issue is proper because the Commission cannot procure travel agent services, and that Omega's objective is to offer "a complete and fully manned travel service." However, Omega is not suggesting or requesting that the agency procure Omega's services as a travel agent. Rather, Omega asserts that if given the opportunity to respond to the solicitation it will offer the Commission the exact items that an airline will provide--an ERT system and the required training and maintenance--without providing any personnel or travel services. Omega argues that it is only precluded from doing so by the requirement for the contractor to hold a universal bilateral ticket stock agreement.

The type of ticket stock provided to the agency does not affect either the cost of a ticket or the nature of the travel arrangements the agency can make. Rather, the difference between using IATA ticket stock and Universal Bilateral Ticket Stock affects only the carriers' billing process with respect to which party receives the commission from the carrier for a ticket sale--in the case of IATA stock, a travel agent, and in the case of Universal Bilateral Ticket Stock, an airline. In this case, the Commission has not explained why it needs to obtain the ERT system only from a contractor that can provide it with a direct relationship with the system owner. In this regard, the Department of Defense routinely procures ticketing and reservation services through travel agents and thus does not have a direct relationship with ERT system owners. See Scheduled Airlines Traffic Offices, Inc., B-248448; B-248448.2, Oct. 1, 1992, 92-2 CPD ¶ 304. Since the Commission's need is for an ERT system and it has not explained why a universal bilateral ticket stock agreement is necessary for it to meet those needs, or why its needs could not be met by a travel agency, such as Omega, with an IATA appointment or an individual ticket stock agreement, we agree with Omega that the requirement is unduly restrictive of competition.

We recommend that the Commission issue an amendment to the solicitation to delete the requirement for the successful contractor to hold a universal bilateral ticket stock agreement and to provide the Commission with airline rather than IATA stock. We also find Omega entitled to the costs of filing and pursuing its protest, including reasonable attorneys' fees. 4 C.F.R. § 21.6(d)(1) (1994).

In accordance with 4 C.F.R. § 21.6(f)(1), Omega's certified claim for such costs, detailing the time expended and the costs incurred, must be submitted to the Commission within 60 days after receipt of this decision.

The protest is sustained.

\s\ James F. Hinchman  
for Comptroller General  
of the United States