

DECISION

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

FILE: 3-208420**DATE:** September 21, 1982**MATTER OF:** DOT Systems, Inc.**DIGEST:**

Information provided to bidder to clarify IFB provisions was not the type of information contemplated by DAR § 2-208(c) which must be incorporated in amendment to IFB and furnished to all bidders to avoid prejudice and, therefore, protest contending amendment should have been issued to assure all bidders bid on same basis is denied.

DOT Systems, Inc. (DOT), protests the award of the contract under invitation for bids (IFB) No. DAHC40-82-B-0013, issued by the United States Army Troop Support Agency for merchandise coupon redemption services for the United States Army commissaries. DOT contends that the IFB was ambiguous and that such ambiguity should have been clarified for all other bidders in accordance with Defense Acquisition Regulation (DAR) § 2-208 (1976 ed.) and that only DOT bid on the basis of a complete understanding of the requirements.

We summarily deny the protest.

The IFB was issued on May 28, 1982, and DOT, on June 25, 1982, requested clarification regarding the performance bond, the time period within which the Government is obligated to repay the contractor for unredeemable coupons and whether such unredeemable coupons accrue interest and, if so, at what rate and from what date. The Army responded by letter dated June 29, 1982. Bids were opened on July 6, 1982, and on July 13, 1982, DOT filed a protest with the Army, which was denied by letter of July 20, 1982. DOT filed a protest with our Office on July 28, 1982.

We find DOT's contention that the mandates of DAR § 2-208(c) were violated is without merit. The regulation provides:

"(c) Any information given to a prospective bidder concerning an invitation for bids shall be furnished promptly to all other prospective bidders, as an amendment to the invitation, whether or not a pre-bid conference is held, if such information is necessary to the bidders in submitting bids on the invitation or if the lack of such information would be prejudicial to uninformed bidders * * *." (Emphasis added.)

Here, the contracting officer, in denying DOT's protest, maintained that the specifications were adequate and not ambiguous and, therefore, there was no need to advise other prospective bidders with additional clarification through an amendment. Moreover, both the first and second low bidders have verified their bid prices with knowledge of the grounds of DOT's protest.

In clarifying the solicitation for DOT, the contracting officer advised DOT that a performance bond was not required until after award and that interest would be payable from the 31st day after the submission of a proper invoice, in accordance with the requirements of the Prompt Payment Act (P.L. 95-563).

We do not view this information as the type contemplated under DAR § 2-208(c) which would be required to be conveyed to other bidders through an amendment because of the possibility of prejudice. See FJB Engineering Company, B-181147, September 12, 1974, 74-2 CPD 162.

It is clear from DOT's submission that the issue presented is without legal merit. We therefore are deciding the protest without obtaining an agency report since it would serve no useful purpose. Lowy's Express, Inc., B-206433, March 10, 1982, 82-1 CPD 228.

The protest is summarily denied.

for Harry W. Can Cleave
Comptroller General
of the United States