

DECISION



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

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FILE: B-219415 **DATE:** August 29, 1985
MATTER OF: Aleman Food Service, Inc.

DIGEST:

1. Where solicitation for dining facility services adequately explains agency needs and performance requirements, fact that agency has not detailed every facet of how performance is to be achieved does not render specification inadequate for competition.
2. Protest that agency's estimate of the amount of time of performance for dining facility attendant tasks is inaccurate is denied where protester fails to establish that estimate is not based on the best information available.
3. Where agency has clearly stated its requirements and informed offerors where to obtain floor plans, it is not required to furnish the floor plans with the solicitation.

Aleman Food Services, Inc. (Aleman) protests that request for proposals (RFP) No. DABT10-85-R-0011 issued by the Department of the Army, Fort Benning, Georgia for dining facility operations, cooks and attendants, contains inadequate specifications.

We deny the protest.

The RFP is part of an OMB Circular A-76 cost comparison to determine whether certain dining facility functions may be more economically performed by contract or in-house by government personnel. After receiving the RFP, Aleman submitted a number of questions about the solicitation's requirements to the Army. The Army responded to each question with either an answer or a citation to the specifications or various documents contained in Fort Benning's technical library. Aleman alleges that the Army did not adequately respond to its questions and is arbitrarily withholding certain information.

The Army responds that the specifications are performance oriented, as required by the Federal Acquisition Regulation (FAR), 48 C.F.R. § 7.304 (1984), when an RFP is issued for the purpose of comparing the costs of contractor and government performance. The Army notes that FAR, § 7.304(a)(1) requires that the specifications state adequately what is to be done without prescribing how it is to be done, in order to take advantage of an offeror's business expertise and to avoid placing the government in a situation where the contractor would be considered to have entered into a personal services contract as defined in FAR, 48 C.F.R. § 37.104. The Army believes that Aleman has failed to demonstrate that the solicitation was unclear or inadequate. We agree, as shown by the following discussion of Aleman's objections.

Aleman contends that the solicitation does not spell out the duties that military personnel will perform in dining halls nor is it accurate as to the amount of time of performance. Paragraphs C.5.18.2 through C.5.18.7.6 of the solicitation describe tasks to be performed by dining facility attendants, and paragraph C.1.12 explains that as part of their basic training, Army trainees will perform these tasks in certain facilities, identified in Technical Exhibit 3 of the solicitation. For example, in company size facilities, trainees will perform all tasks while in basic training. In battalion size facilities, trainees will perform all tasks if all companies in the battalion are in basic training. If only some of the companies in the battalion are in basic training, trainees will perform all tasks only in a designated area. Technical Exhibit 5 references floor plans, available in Fort Benning's reference library, which delineate the areas that trainees and the contractor are each responsible for when attendant tasks are performed by both in the same facility. According to the Army, the floor plans were kept in the reference library due to their bulk and illegibility in reproduction.

As to the contention that the solicitation is not accurate in the amount of time of performance for dining facility attendant tasks and that the government provides only an approximate percentage, Technical Exhibit 3 of the solicitation provides workload data, such as the estimated number of days contractor attendant services are required for all or a portion of a facility. According to the Army, the information in Technical Exhibit 3 is the government's best estimate of when dining facility attendant tasks will be shared and is based on historical data. Also, paragraph

C.1.12.3 states that the government will notify the contractor 2 weeks in advance of dining facility attendant requirements.

There is no requirement that the estimates in a solicitation be absolutely correct. Rather, they must be based on the best information available and present a reasonably accurate representation of the agency's anticipated actual needs. See Hero, Inc., B-213225, Dec. 14, 1983, 83-2 C.P.D. ¶ 687. It is the protester's burden to establish that the stated estimates are not based on the best information available or otherwise are deficient. Richard M. Walsh Associates, Inc., B-216730, May 31, 1985, 85-1 C.P.D. ¶ 621. Since Aleman has presented no evidence to rebut the Army's explanation of the estimates, it has not met its burden of affirmatively proving its case.

Aleman also protests that the government failed to provide a list of dining halls by type and similar configuration, and that the specifications arbitrarily withheld information on the facilities' square footage, seating capacity, layout, and areas which the contractor is responsible for when attendant tasks are performed by both the contractor and the government in the same facility. The square footage is included in Technical Exhibit 4, and the other information was available for examination in the reference library, as noted in the solicitation.

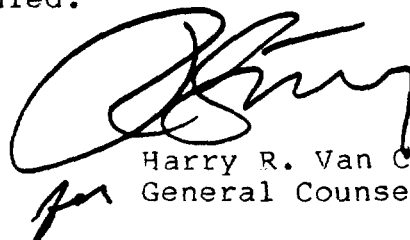
Aleman argues that the Army did not specify the requirements for supervisory personnel, did not specify if the dining hall supervisors were working or non-working, did not specify if KP service dining facilities could be supervised by working shift leaders, and did not specify whether cooks are required to serve the meat entree. As the Army points out, under paragraph L-10(d)(2)(b), Part IV, Section L of the solicitation, the offeror must submit proposed staffing, including direct personnel in support of dining facilities, as part of its proposal. Paragraph C.5.11 tasks the contractor with serving the meal, but leaves the manner in which this is accomplished to the contractor. The Army contends that if the government were to specify the desired level of staffing in detail, the effect would be to negate any possible benefit which could be derived from the prospective contractor's management expertise. Similarly, the Army feels that since the specifications do not specify the details of contractor performance unnecessarily, the contractor is expected to determine who will serve what items.

Aleman also argues that the solicitation is "not clear on the method and procedure to obtain subsistence." Yet this information is specified in detail in paragraphs C.5.4.2 and C.5.4.4 which deal with requisitioning subsistence, and pick-up, delivery and receipt of subsistence.

Aleman alleges that the specifications do not clarify the accounting or funds responsibility of the contractor and the government, and that this has a definite staffing impact. However, Aleman offers no details to explain its objection. Apparently this allegation relates to a question directed by Aleman to the Army about which post-wide reports a contractor must complete. Technical Exhibit 2 lists all reports to be furnished by the contractor. To the extent that Aleman's protest does not refer to these reports, we note that paragraphs C.5.4 through C.5.7 require various types of accounting tasks, and that paragraphs C.5.6 and C.5.7 discuss contractor responsibilities regarding funds.

We believe the foregoing discussion illustrates the lack of merit to this protest. Aleman has not met its burden of affirmatively proving that the solicitation lacked sufficient clarity to permit competition on an intelligent and equal basis. See Crimson Enterprises, Inc., B-209918.2, June 27, 1983, 83-2 C.P.D. ¶ 24. There is no requirement that a solicitation be so detailed as to eliminate completely all performance uncertainties or address every possible eventuality. See, e.g., Operational Support Services, B-215853, Dec. 3, 1984, 84-2 C.P.D. ¶ 607; International Business Investments, B-203168, Aug. 12, 1981, 81-2 C.P.D. ¶ 133. As for Aleman's contention that the Army arbitrarily withheld information on the dining facilities' seating capacity, layout, etc., the Army was not required to furnish the information with the solicitation, since the Army clearly stated its requirements and informed offerors where to obtain the information. See Alan Scott Industries, B-193530, Apr. 27, 1979, 79-1 C.P.D. ¶ 294.

The protest is denied.



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for General Counsel