



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Harris System International, Inc.

File: B-224230

Date: January 9, 1987

DIGEST

1. Protest by incumbent contractor contending that an invitation for bids for custodial services should specify the dimensions of the areas and the number of items such as sand urns, ash trays and waste baskets to be cleaned and the frequency of the required spot cleaning is denied since the IFB provides the floor plans showing dimensions of all buildings and urges bidders to make site visits. Moreover, all such information is readily available to the protester and there is no requirement that specifications be so detailed that site visits become unnecessary.

2. Protest contending that an invitation for bids for custodial services is defective because it provides that only after contract award will the contractor be informed of the acceptable deficiency levels and the deduction percentages to be taken from the contractor's billings for exceeding the acceptable deficiency levels is sustained. Since such information could significantly affect the cost of performance, it is essential for bidders to have when they prepare their bids, and its absence could discourage potential bidders from competing or offering as low prices as they might if they knew of the acceptable deficiency levels and deduction percentages to be imposed on the contractor after award.

DECISION

Harris System International, Inc., (Harris) protests several defects it perceives in invitation for bids (IFB) NO. DAKF24-86-B-0051, issued by the Department of the Army for custodial services at Fort Polk, Louisiana. Harris, the incumbent contractor, contends that the IFB is ambiguous and lacking in sufficient information regarding the services to be performed to enable potential bidders to prepare their bids. Harris

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further contends that the agency is withholding until after contract award essential information regarding the acceptable performance quality levels and deductions to be made from the contractor's billings for unsatisfactory performance.

The protest is denied in part and sustained in part.

BACKGROUND

The IFB was issued on August 13, 1986, with a bid opening date scheduled for September 12. After receipt of this protest, the bid opening date was extended indefinitely.

The IFB asked for bids to provide custodial services, including regular cleaning and spot cleaning as needed. All bidders were provided with the floor plans and the approximate square footage of each building but the IFB specifically stated that the bidders had the responsibility to verify any information they might question. The IFB urged the bidders to inspect the site to satisfy themselves as to all conditions that might affect the cost of contract performance. While the IFB required the contractor to maintain an acceptable inspection system, the agency reserved the right to make its own inspections and to require the contractor to correct improperly performed services at no increase in contract price, or if this were impracticable, to reduce the contract price to reflect the reduced value of the services improperly performed. In this regard, the IFB incorporated a provision that read as follows:

"E.2. PERFORMANCE REQUIREMENTS SUMMARY. A performance requirement summary which will reflect the method of inspection and deductions for nonperformance will be incorporated into this contract by modification at no change in the contract price."

AMBIGUOUS REQUIREMENTS

Harris insists that the requirement that the contractor immediately spot clean all surfaces that need it is defective because it contains no limits to the number of times that the spot cleaning must be performed and it argues that the IFB should identify who will determine the need for spot cleaning. Harris further contends that the number of square feet to be serviced must be revealed in order for bidders to determine their prices and that bidders need to know the number of restrooms, sinks, sand urns, ash trays and waste

baskets that will need cleaning, as well as the dimensions of the walls, ceilings, pipes, ducts and grills that will have to be dusted.

The Army disagrees and contends that the bidders have all of the information they need and that if any uncertainties remain, they could be removed by site visits. The Army suggests that potential bidders use their skill and expertise in the field of janitorial work to estimate the necessary amount and frequency of spot cleaning from floor plans provided and from anything else observed during site visits. The Army also points out that Harris, as the incumbent contractor, should know better than anyone the amount and frequency of spot cleaning to be expected and that the Army expects the contractor to determine if an area needs spot cleaning.

As a general rule, a procuring agency must give sufficient detailed information in its IFB to enable bidders to compete intelligently and on a relatively equal basis. DSP, Inc., B-220062, Jan. 15, 1986, 86-1 CPD ¶ 43. There is no requirement, however, that an IFB be so detailed as to eliminate all performance uncertainties and risks. Hero, Inc., 63 Comp. Gen. 17 (1983), 83-2 CPD ¶ 687.

In a similar case where the solicitation for custodial services provided information on the buildings to be cleaned and specifically advised bidders that they were expected to visit the site to satisfy themselves with respect to all conditions that might affect the cost of performance, we denied a protest contending that the specifications should have provided specific numbers of the items to be cleaned. We stated that an agency is not required to draft specifications so as to eliminate the need for sites visits. We noted that custodial services by their nature often require computing prices based on visual inspections and that the presence of some risk does not render a solicitation improper. Triple P Services, Inc., B-220437.3, Apr. 3, 1986, 86-1 CPD ¶ 318.

We disagree with Harris' view that the Triple P Services decision is not applicable here since the floor plans "reveal that restrooms are not consistently detailed." Most of the floor plans provided to bidders here show the presence and locations of restrooms and the Custodial Performance Requirements charts, also provided to the bidders, indicate by building numbers the frequency with which the restrooms must be cleaned. Moreover, any necessary information that is not available from the drawings and charts could be obtained by visits to the site. Although Harris argues that "walk

throughs" are inadequate as only a small sampling of the buildings are visited, there is no indication in the record that any potential bidder has been denied the right to see any building that it asked to inspect. In this regard, Harris has a considerable advantage since it could obtain such information in the course of its performance of the current contract.

This aspect of Harris' protest is denied.

PERFORMANCE REQUIREMENTS SUMMARY

In response to Harris' contention that the Performance Requirements Summary (PRS) provision should be provided to all potential bidders prior to bid opening rather than incorporated into the contract by modification after award, the agency insists that a PRS merely states the acceptable quality level such as the number of errors that can be found in a sample of the services performed before the services will be considered to be deficient and the deduction percentages that will be taken from the contractor's monthly billings for exceeding the deficiency levels. Further, the agency argues that it is not the method of inspection that is important but the standards by which the inspections will be made and those will not be changed from those stated elsewhere in the IFB.

In our view, the agency has not supported its apparent belief that responsible potential bidders do not need to know the acceptable deficiency levels and the deduction percentages before their bids are prepared. Such information would obviously benefit the bidders because it could significantly impact the contractor's costs and is essential for a bidder to intelligently appraise the risks and to prepare its bid price. The possibility of incurring deductions of unknown amounts might be considered by potential bidders to be too risky and discourage them from competing or offering as low prices as they might if they knew precisely what the acceptable deficiency levels and deductions percentages were prior to bidding. See Environmental Aseptic Services Administration, B-219680 et al., Dec. 24, 1985, 85-2 CPD ¶ 706 at 5.

We therefore sustain this aspect of Harris' protest. By separate letter of today to the Secretary of the Army, we are recommending that the IFB be further amended to delete the PRS provision and to provide the essential information it promised to the bidders (that is, the method of determining

that performance is deficient and the percent or amount of deduction from payments that may be imposed for deficient performance) before the submission of their bids rather than after the contract is awarded.

The protest is denied in part and sustained in part.

for *Larry R. Jan Claus*
Comptroller General
of the United States