



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Richard M. Milburn High School
File: B-237337
Date: February 13, 1990

Anna P. Clarke, Esq., Smith, Pachter, McWhorter & D'Ambrosio, for the protester.
Herbert F. Kelley, Jr., Esq., Department of the Army, for the agency.
Jacqueline Maeder, Esq., Paul Lieberman, Esq., and John F. Mitchell, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where solicitation required that an offeror must be an institution accredited by an institutional accrediting body recognized by the Council on Postsecondary Education, proposal from a secondary school which did not have the required accreditation was properly rejected as unacceptable.

DECISION

Richard M. Milburn High School protests the determination that its proposal was unacceptable and the award of a contract to Central Texas College under request for proposals (RFP) No. DABT31-89-R-0074, issued by the Department of the Army, Fort Leonard Wood, Missouri, for the conduct of a Basic Skills Education Program (BSEP).

We deny the protest.

The BSEP consists of traditional classroom or computer-based courses in math, reading and military occupational specialty (MOS) related skills. The solicitation, issued on August 3, 1989, included a base period for instruction from October 1, 1989, through September 30, 1990, and two 1-year option periods. The solicitation originally included clause C.1.2 which provided that the contractor had to be an institution accredited by one of 14 specifically identified school or college associations or councils. This clause was deleted by amendment 0006, issued September 5, and replaced with the following paragraph:

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"C.1.2--The Contractor must be an institution accredited under the policy requirements addressed in Army Regulation [AR] 621-5, 'On-duty and off-duty instructional services will be provided by institutions accredited by institutional accrediting bodies recognized by the Council on Postsecondary Education (COPA)^{1/} and the Department of Education (DOE)."

The solicitation also specified that the government could award a contract based on initial proposals if it is determined that the price is fair and reasonable and there are no uncertainties or deficiencies in the offeror's proposal.

Only Milburn and Central Texas submitted proposals, each consisting of separate technical and cost proposals. As evidence that it fulfilled the requirement in clause C.1.2, each offeror submitted with its proposal a certificate of accreditation. Milburn's certificate reads, "Commission on Secondary Schools, Southern Association of Colleges and Schools."

Technical proposals were reviewed by the technical review board, comprised of the Educational Services Officer and the Chief for the Instructional Services. The board found that the proposal submitted by Milburn was technically unacceptable because Milburn is not accredited by an accrediting body recognized by COPA. The board noted that, although COPA recognizes some accrediting bodies of the Southern Association of Colleges and Schools, it does not recognize the Commission on Secondary Schools within this Association. Further, the board noted that Milburn is not listed in COPA's 1988-1989 issue of Accredited Institutions of Postsecondary Education. The board also contacted COPA by telephone and a COPA representative confirmed that Milburn does not have postsecondary accreditation. Based on the board's recommendation, the contracting officer determined that Milburn was not acceptable for this acquisition and awarded the contract to Central Texas for \$59,569.70 for the base period. No discussions were conducted since Milburn's proposal was found unacceptable and the proposal from Central Texas was found fully technically acceptable and reasonably priced.

Milburn argues that it has the proper accreditation to compete under the solicitation. Milburn contends that COPA

^{1/} The proper full title of this entity is the Council on Postsecondary Accreditation, American Council on Education.

recognizes the Southern Association of Colleges and Schools and that the Southern Association is the "institutional accrediting body" that must be recognized by COPA under AR 621-5. Milburn argues that AR 621-5 does not prohibit secondary schools from competing for secondary education service contracts, and since the solicitation calls for secondary educational services, it is reasonable to assume that secondary accreditation is sufficient. Milburn further asserts that the Army's interpretation of AR 621-5 unduly restricts competition.

We find that the agency's application of the accreditation requirement is consistent with the language of AR 621-5, and Milburn's interpretation is contrary to the plain meaning of the solicitation.^{2/} The regulation quoted specifically states that the contractor had to be "accredited by institutional accrediting bodies recognized by [COPA]. . . ." The contracting activity deliberately required accreditation by an entity which only certified postsecondary schools because the BSEP contract at Fort Leonard Wood is used to support a noncommissioned officers course curriculum and an advanced noncommissioned officers course curriculum at the Fort Leonard Wood Noncommissioned Officers Academy. The BSEP instruction being solicited is needed at a postsecondary level in order to prepare the students who are attending the academy for military engineering courses. COPA does not recognize Milburn's accreditation source. The list of accrediting groups recognized by COPA is published in the 1988-89 edition of Accredited Institutions of Post-Secondary Education, and does not include the Commission on Secondary Schools, Southern Association of Colleges and Schools. Additionally, Milburn is not cited as an accredited institution in this publication. Further, in the interest of clarification of COPA's scope of recognition, our Office informally contacted a COPA representative who stated that COPA does not recognize the Southern Association of Colleges and Schools, but recognizes only two specific commissions within the Southern Association.^{3/} COPA also stated that each

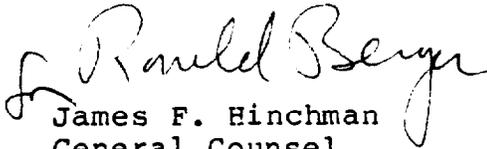
^{2/} In view of this conclusion, to the extent that Milburn argues that the Army's interpretation of AR 621-5 unduly restricts competition, the protest is untimely since the allegation concerns an alleged apparent solicitation impropriety and was not filed prior to the closing date for receipt of initial proposals. See 4 C.F.R. § 21.2(a)(1) (1989).

^{3/} COPA recognizes The Commission on Colleges and the Commission on Occupational Education Institutions.

commission within the Southern Association accredits within its scope, and because COPA recognizes only post-secondary schools (colleges or vocational/technical schools), it does not recognize The Commission on Secondary Schools.

Thus, the agency reasonably determined that Milburn's proposal was unacceptable because Milburn could not satisfy the RFP's accreditation requirement.

Accordingly, the protest is denied.


James F. Hinchman
General Counsel