

Arsenoff  
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Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Seair Transport Services, Inc.

**File:** B-249555

**Date:** December 4, 1992

Dennis M. Carson for the protester,  
Captain Gerald P. Kohns, Esq., and Timothy Goblirsch, Esq.,  
Department of the Army, for the agency.  
Robert C. Arsenoff, Esq., and John Brosnan, Esq., Office of  
the General Counsel, GAO, participated in the preparation of  
the decision.

### DIGEST

1. Protest that agency failed to provide sufficient information to bidders regarding the status of tool kits to be supplied as government furnished equipment on an "as is" basis is denied where solicitation invited bidders to visually examine the tool kits at a site visit where additional information relating to their status was available.
2. Protest that agency failed to clearly state what types of contractor experience would be used to evaluate responsibility is denied where solicitation was amended to unambiguously provide that corporate experience as well as the experience of corporate officers and project managers could be acceptable.
3. Protest that agency misled bidders as to the nature of required maintenance services in a statement filed with the Small Business Administration is denied where record shows that the agency's representation of the solicitation provisions regarding maintenance was accurate.

### DECISION

Seair Transport Services, Inc. protests the terms of invitation for bids (IFB) No. DABT23-92-B-0056, issued as a small business set-aside by the Department of the Army for ground handling, fueling and maintenance services for aircraft at Godman Army Air Field, Fort Knox, Kentucky. The protester principally argues that the IFB did not provide sufficient information for the preparation of bids.

We deny the protest.

The IFB was issued on June 24, 1992, with bid opening scheduled for July 30. It contemplated the award of a contract for ground handling, fueling and aircraft maintenance services. The contractor was required to provide intermediate level aircraft maintenance and repair on aircraft assigned to the air field at Fort Knox. Except in specified circumstances, the Army was to provide basic level maintenance. Higher level maintenance duties, involving the overhaul, repair and rebuilding of aircraft parts and components could be assigned to the contractor.

Technical Exhibit 4 to the IFB listed government furnished equipment (GFE), consisting of various tool kits to be made available during performance. The exhibit indicated that the kits were being furnished "as is," with missing parts, and it stated that these kits would be sufficient to perform maintenance duties set forth in the IFB. Bidders were invited to inspect the GFE at a site visit on July 8.

Amendment 0001 to the IFB contained a series of answers to questions posed by bidders at and after the site visit. The response to question number 28 changed the statement in Technical Exhibit 4 regarding GFE to state that the listed tool kits were not adequate to complete the contract requirements. The response to question number 1 requesting specifics as to what type of contractor experience would be evaluated indicated that, in assessing responsibility, the experience of the corporation, its principal officers and its project manager could all serve as qualifying experience.

Prior to bid opening, Seair and another firm--Southeastern Industrial Maintenance Company, Inc. (SIMCO)--appealed to the Small Business Administration (SBA) the Standard Industrial Classification (SIC) assigned to the IFB; the agency filed a response on July 15. The matter was eventually decided in Seair's favor on September 4; however, since SBA's decision was rendered after bids were opened, it has prospective effect only and does not control the standard contained in the subject IFB. See Federal Acquisition Regulation (FAR) § 19.303(c)(3). SIMCO also filed an agency-level protest on July 23 which was denied on July 27. Seair filed this protest with our Office on July 28.

The thrust of Seair's protest is that the Army failed to provide adequate information to bidders regarding its requirements. In this connection, Seair argues that the agency: 1) improperly delayed providing the protester with a copy of SIMCO's agency-level protest; 2) provided conflicting and insufficient information regarding the GFE to be furnished during contract performance; 3) provided confusing information regarding what factors would be used to measure

contractor responsibility; and 4) exaggerated the scope of the required aircraft maintenance duties in its July 15 submission to SBA, thereby creating an ambiguity as to what the IFB actually required. For the reasons set forth below, we find no support for Seair's positions.

First, with respect to the Army's alleged delay in providing Seair a copy of SIMCO's agency-level protest, the record shows that the protest was filed on July 23, that Seair requested a copy the following day, and that a copy was provided to the firm on July 28--1 day after SIMCO's protest was denied. During this time--the protest was denied before the July 30 bid opening--it was clear that an award would not be withheld pending disposition of the agency-level protest and, therefore, contrary to Seair's position, the Army was not obligated to furnish the firm with a copy of the protest. See FAR § 33.103(a)(3). Moreover, since SIMCO's agency-level protest basically mirrors Seair's own general objections to the procurement, we fail to see how Seair was prejudiced by not receiving a copy until July 28.

Second, Seair asserts that, in answering question number 28 regarding the availability of GFE by stating that the tool kits to be furnished were not adequate to perform the contract duties, the Army created a contradiction with Technical Exhibit 4, which stated that the kits were adequate. The protester's position simply ignores the fact that the questions and answers supplied in Amendment 0001 to the IFB operated to change the wording of the solicitation and, thus, we find that no "contradiction" was presented by the response. Essex Electro Eng'rs, Inc., B-232675, Jan. 18, 1989, 89-1 CPD ¶ 44.


Further in this regard, Seair asserts that the agency could have easily reduced the risks that bidders faced in preparing their bids by providing a list of what tools were missing from the GFE sets to be furnished. While offerors must be given sufficient detailed information in a solicitation to enable them to compete intelligently and on a relatively equal basis, there is no requirement that the solicitation be so detailed as to eliminate all performance risks and we have specifically noted that service contracts, by their very nature, often involve the estimation of costs based on visual inspections of GFE and that the presence of some degree of risk does not make a solicitation improper. Creative Mgmt. Technology, Inc., B-233255; B-233330, Feb. 28, 1989, 89-1 CPD ¶ 217. In the present situation, the protester failed to attend the site visit where GFE was available for inspection and where, according to the agency, further information on tool kit shortages was readily available. Under these circumstances, we find that the Army provided sufficient information to prospective bidders. Id.

Third, Seair takes exception to the Army's clarification in Amendment 0001 as to what type of contractor experience would be considered in determining bidder responsibility. Amendment 0001--which provides an illustrative list including corporate experience as well as experience of corporate officers and project managers--is expansive and quite clear. We therefore find no merit to this portion of the protest.

Finally, Seair argues that in the Army's July 15 response to SBA in the SIC code appeal the agency exaggerated the scope of the contract to be awarded under the IFB by stating that combat aircraft were to be overhauled or rebuilt when, in fact, the IFB merely called for the overhauling and rebuilding of aircraft parts and components; this exaggeration, in Seair's view, created a significant doubt as to what the solicitation actually required.

A review of the Army's July 15 submission to SBA reveals that it accurately describes the maintenance work of the IFB to include the "overhauling, rebuilding and fabricating [of] aircraft components," not aircraft. This statement is consistent with the text of the solicitation as it describes higher level maintenance duties which the contractor may be required to perform and, perhaps more importantly, it is consistent with the protester's own reading of the solicitation. Seair's argument in this regard is based on a summary statement near the end of the Army's July 15 submission, taken out of context, which generally describes the degree of proficiency required in the repair, overhauling and rebuilding of aircraft and which does not, by any reasonable reading of the submission of SBA, purport to change the requirements set forth in the IFB--requirements which are accurately described elsewhere in the submission.

The protest is denied.

  
James F. Hinchman  
General Counsel