

Goff 148336



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Richard M. Milburn High School

File: B-250201

Date: January 5, 1993

Robert H. Crosby for the protester.
Patricia M. Anderson for Center for Training in Business and Industry, Kenneth A. Martinez for A.S.K. Associates, and B.W. Beebe for Central Texas College, interested parties. Major Bobby G. Henry, Jr., Department of the Army, for the agency.
Jackie A. Goff, Esq., and John F. Mitchell, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest of solicitation for logistics courses requirement that the contractor possess post-secondary accreditation as unduly restrictive of competition because no college credit is to be awarded for any of the courses being procured is denied where solicitation does, in fact, require college credit to be given and protester has not shown that accreditation requirement is not reasonably related to agency's needs.

DECISION

Richard M. Milburn High School protests invitation for bids (IFB) No. DAKF06-92-B-0053, issued by the Department of the Army, Fort Carson, Colorado, for the conduct of Logistics School Maintenance Program (LSMP) courses. Specifically, Milburn protests the solicitation requirement that the contractor be accredited by an organization recognized by the Council on Post Secondary Accreditation (COPA) as overstating the Army's minimum needs and unduly restricting competition.

We deny the protest.

The LSMP consists of advanced courses relating to performing, troubleshooting, and supervising logistical efforts supporting the Army's 4th Infantry Division (Mechanized) at Fort Carson. The IFB's Performance Work Statement requires, at paragraph C.5.2., that the contractor "[s]hall possess either National or Regional Accreditation which is recognized by the Council on Post Secondary Accreditation (COPA)." The IFB also requires, at paragraph

C.5.7., that after award, the contractor is to provide the government with a listing of the college credit hours to be awarded for successful completion of each course and, at paragraph C.5.7.1., the solicitation states that "[c]ollege credit shall be granted by the contractor to those individuals successfully completing a course of instruction."

Milburn is accredited by the Commission on Secondary Schools within the Southern Association of Colleges and Schools (SACS). Although COPA recognizes some accreditation bodies of the SACS, it does not recognize the Commission on Secondary Schools. Milburn notes that since COPA only recognizes post-secondary commissions of accrediting bodies, the IFB's accreditation requirement effectively excludes institutions like the protester which are accredited by a secondary commission. See Richard M. Milburn High School, B-237337, Feb. 13, 1990, 90-1 CPD ¶ 188 (upholding rejection of Milburn's proposal submitted in response to solicitation containing similarly worded accreditation provision.)

Milburn's protest does not analyze the specific course requirements for this procurement in relation to the accreditation requirement, much less mention the requirements in the IFB's paragraphs C.5.7. and C.5.7.1. concerning the awarding of college credit. Milburn simply maintains:

"There is no college credit required for any of the courses to be procured. The courses could be taught by certified instructors from secondary or post secondary institutions. Therefore, to require COPA accreditation unnecessarily restricts competition." (Emphasis added.)

In its report, the Army points out that Milburn's protest rests on a fundamental factual error: contrary to Milburn's assertion the IFB does, in fact, require that college credit be given for successful course completion.¹ In addition, the Army notes that the Fort Carson solicitation is for a different type of course from those to which Milburn's protest appears to be directed, and has provided a detailed rationale as to why the nature of the logistics courses and their relevance to promotion and assignment justified the college credit and corresponding COPA accreditation requirements.

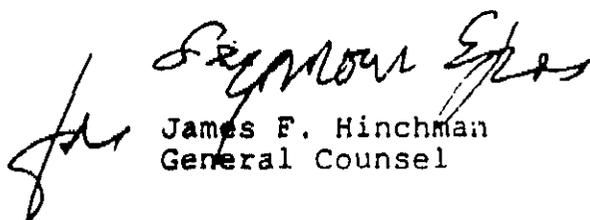
¹The Army also urged dismissal on the grounds that Milburn did not provide timely notice of the protest to the agency. However, there is no evidence that the agency was prejudiced by protester's 1-day late filing with agency. 4 C.F.R. § 21.1(f) (1992).

In its response to the Army report, Milburn states that it had not protested a college credit requirement in the IFB because, in fact, there is none. The protester asserts that paragraph C.5.7. of the IFB only requires a contractor to provide a "listing" of the college credit hours which the contractor would award upon successful completion of each course. Milburn says if it were awarded the contract, it could fully comply with paragraph C.5.7. by providing a listing of all the required courses with a "zero" after each one, for a total of zero.

We agree with the Army that Milburn's protest is contrary to the plain meaning of the solicitation. The requirement in paragraph C.5.7. for the contractor to "list," after award, the credit hours to be awarded for each course must be read in the context of paragraph C.5.7.1. which immediately follows it. Paragraph C.5.7.1. clearly provides that "college credit shall be granted" upon successful course completion. The suggestion that the contractor could provide a course listing followed by all zeroes--in effect, to award no college credit hours--clearly would be inconsistent with the paragraph C.5.7.1. Since contrary to the protester's allegation, the IFB does contain a requirement for college credit, the corresponding requirement in paragraph C.5.2. for COPA accreditation is reasonable.

As indicated above, in addition to pointing out that Milburn's protest is factually in error, the Army has explained its justification for its college credit requirement. Milburn's general disagreement provides no basis on which to find that the requirement is not reasonably related to the agency's needs.

The protest is denied.


James F. Hinchman
General Counsel