



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Mobile Medic Ambulance Service, Inc.

File: B-259045

Date: February 15, 1995

Charles D. Porter, Esq., Phelps Dunbar, for the protester. William E. Thomas, Jr., Esq., and Jeanne Anderson, Esq., Department of Veterans Affairs, for the agency. Behn Miller, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest alleging that solicitation was prejudicially ambiguous with respect to application of federal ambulance specifications to convalescent transport vehicles is denied where only reasonable interpretation of the solicitation which gives full meaning to all of its provisions is that federal ambulance specifications are applicable only to certain components of required non-emergency vehicles.

DECISION

Mobile Medic Ambulance Service, Inc. protests the award of a contract to Goss Enterprises, Inc. under invitation for bids (IFB) No. 586-03-95, issued by the Department of Veterans Affairs (VA) for emergency ambulance services and non-emergency convalescent transport services. Mobile Medic contends that the awardee's low bid is the result of the awardee's mistaken interpretation of the specifications in the IFB, and therefore should be rejected on the ground that the awardee is not going to provide technically compliant services.

We deny the protest.

BACKGROUND

The IFB was issued as a small business set-aside on June 27, 1994, and required bidders to provide 24-hour emergency and non-emergency transport services for the Veterans Affairs Medical Center (VAMC) located in Jackson, Mississippi. As their bids, section B required bidders to complete and submit both an "EMERGENCY AMBULANCE SERVICE" and "NON-EMERGENCY CONVALESCENT TRANSPORT SERVICES" pricing schedule which required fixed-price estimates for a base year period with 4 option years. The solicitation provided that

contract award would be made to the lowest-priced, responsive, responsible bidder.

Of significance here, section C of the solicitation set forth the following minimum requirements for the emergency and non-emergency vehicles:

"8. VEHICLE: The non-emergency transport vehicle (lie-in) under the terms of this contract will be licensed and will meet the minimal vehicle requirements as established by Federal Specification KKK-A-1822C dated January 1, 1990, subject to exceptions and additions mandated by the Office of EMS, Mississippi State Department of Health and [the] following:

- "a. Subject specifications apply to emergency medical care vehicle only.
- "b. Subject specifications are mandatory as minimal requirements for such vehicles, but chassis or compartment modifications are permissible when they clearly exceed the minimal specifications.
- "c. The basic non-emergency care vehicles contracted for will be the Type I, Type II, or Type III, and are equally acceptable to the [VAMC]. The specifications KKK-A-1822C will apply with variation as indicated by this IFB as minimal vehicle requirements.
(SPECIFICATIONS AVAILABLE FOR REVIEW)

"9-1. AMBULANCE MEDICAL EQUIPMENT: Each emergency medical vehicle will have patient compartment facilities, oxygen and suction systems and equipment, environment climatic equipment, communications and additional systems, equipment, accessories and supplies as required by Section 3.11 through 3.15, 3.15.4 of Federal Specifications KKK-A-1822C dated January 1, 1990.

"9-2. NON-EMERGENCY CONVALESCENT TRANSPORT VEHICLE: Each non-emergency convalescent transport vehicle will have environment climatic equipment, communications and additional systems and/or equipment, and supplies as established by Federal Specifications KKK-A-1822C dated January 1, 1990. Subject specifications are mandatory as a minimal requirement for such vehicles, but chassis or compartment modification are permissible when they clearly exceed the minimal specifications."

At the August 4 bid opening, Mobile Medic and Goss were the only two bidders; Goss submitted the lowest-priced bid. On August 24, after completing a responsibility survey--which included evaluating and confirming Goss's ability to provide the requisite vehicles for contract performance--the contracting officer awarded the contract for both the emergency and non-emergency transport services to Goss as the lowest-priced, responsive, responsible bidder. On September 15, the VA notified Mobile Medic of the award to Goss; on September 26, Mobile Medic filed an agency-level protest challenging the award as improper on the grounds that Goss's bid was nonresponsive to the solicitation's non-emergency vehicle technical specifications. Mobile Medic argued that Goss did not intend to provide technically compliant non-emergency vehicles. In making this argument, Mobile Medic maintained that the IFB required bidders to use non-emergency vehicles which are fully compliant with all of the emergency vehicle technical requirements enumerated in FS KKK-A-1822C.¹

On October 13, the contracting officer denied Mobile Medic's agency-level protest. The contracting officer advised Mobile Medic that contrary to the protester's interpretation, the solicitation did not require non-emergency vehicles to comply with all of the criteria enumerated in FS KKK-A-1822C; instead, the contracting officer explained, the federal ambulance specifications only apply to certain components of the non-emergency vehicles. On October 19, Mobile Medic filed this protest with our Office which essentially reiterates its agency-level protest.

ANALYSIS

It is a basic principle of procurement law that specifications must be sufficiently definite and free from ambiguity so as to permit competition on a common basis. Essex Electric Eng'rs, Inc., B-252288.2, July 23, 1993, 93-2 CPD ¶ 47. A solicitation is not ambiguous unless it is susceptible to two or more reasonable interpretations. Pulse Elecs., Inc., B-243769, Aug. 2, 1991, 91-2 CPD ¶ 122. When a dispute exists as to the actual meaning of a solicitation requirement, our Office will resolve the matter by reading the solicitation as a whole and in a manner that gives effect to all provisions of the

¹FS-KKK-A-1822C is a federal specification whose purpose is to provide a practical degree of standardization--by enumerating various minimum specifications and test parameters, *i.e.*, suggested weight distribution tolerances and oxygen liter capacity--for ambulances.

solicitation. Sea-Land Serv., Inc., B-246784.2, Aug. 24, 1992, 92-2 CPD ¶ 122, aff'd, B-246784.4, Feb. 17, 1993, 93-1 CPD ¶ 147.

The crux of the parties' disagreement in this case is how to interpret the solicitation's non-emergency vehicle technical requirements. The protester contends that the only reasonable interpretation of the non-emergency vehicle specifications set forth at section C is that FS KKK-A-1822C fully applies to both emergency and non-emergency vehicles for this procurement. In reaching this conclusion, the protester relies on the opening statement of the "VEHICLE" clause of section C which provides that "[t]he non-emergency . . . vehicle . . . will be licensed and will meet the minimal vehicle requirements as established by [FS] KKK-A-1822C," as well as the language of the "NON-EMERGENCY CONVALESCENT TRANSPORT VEHICLE" provision which specifies that KKK-A-1822C is "mandatory as a minimal requirement for such vehicles." To the extent the agency and awardee contend that there is a different interpretation of how FS KKK-A-1822C applies to non-emergency vehicles, Mobile Medic contends that the solicitation is prejudicially ambiguous, since the protester's interpretation of the solicitation forced it to bid based on a more expensive non-emergency vehicle.

The VA responds that there is only one reasonable interpretation of the solicitation's non-emergency technical requirements: that FS KKK-A-1822C only applies to certain components of the required non-emergency vehicles. First, the VA points out that although the solicitation generally introduces FS KKK-A-1822C as applicable to both emergency and non-emergency vehicles, the remaining portion of the same introductory provision emphasizes that application of FS KKK-A-1822C is "subject to exceptions and additions" which are introduced with the following subparagraphs in the solicitation:

- "a. Subject specifications apply to emergency medical care vehicle only."
- "c. . . . [FS] KKK-A-1822C will apply with variation as indicated by this IFB as minimal vehicle requirements."

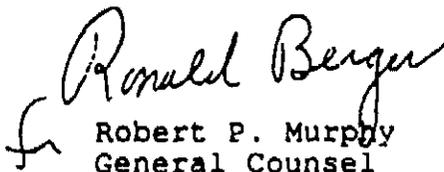
The VA further argues that paragraph C-9-2 makes it clear that FS KKK-A-1822C only applies to non-emergency vehicles for the following components: "environment climatic equipment, communications and additional systems and/or equipment, and supplies as established by [FS] KKK-A-1822C." Because Goss's bid took no exception to these specifications, and because the agency has confirmed through a responsibility survey that Goss's proposed non-emergency

vehicles contain the required components which comply with FS KKK-A-1822C, the VA asserts that award was properly made to Goss as the lowest-priced, responsive and responsible bidder. We agree.

As noted above, solicitations must be construed in a manner which is reasonable and which gives effect to all of their provisions. See Lithos Restoration, Ltd., 71 Comp. Gen. 367 (1992), 92-1 CPD ¶ 379. In this case, although the agency could have made the IFB clearer, we think it is sufficiently clear from the language of section C that FS KKK-A-1822C only applies to the components enumerated in paragraph C-9-2 of the IFB--the environment climatic equipment, communications and additional systems, and related medical supplies. The alternative interpretation propounded by Mobile Medic wholly ignores the order of priority of the Section C technical clauses; as noted by the agency, the arrangement of the section C clauses begins with a general introduction to the required vehicle requirements (and FS KKK-A-1822), progresses from a general application of this standard into more specific minimum vehicle requirements (including exemptions from application of FS KKK-A-1822), and concludes with a short list of components in the non-emergency vehicles to which the federal ambulance standards will be applied. This arrangement, coupled with the plain language of paragraphs C-8(a) and (c), clearly indicates that the federal ambulance specifications do not apply in their totality to non-emergency vehicles.

Our analysis here also is consistent with the overall tenor of the solicitation. The IFB emphasizes that the services to be provided by the emergency and non-emergency vehicles differ greatly in scope; for example, advanced life support personnel and oxygen rescue equipment are not required on the non-emergency vehicles. Since only the emergency vehicles are to be used for medically critical transports, it would appear that requiring non-emergency vehicles to comply with each of the FS-KKK-A-1822C criteria would exceed the agency's minimum needs.

The protest is denied.


 Robert P. Murphy
 General Counsel