



GAO

Accountability * Integrity * Reliability

Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Armor Group International Training, Inc.

File: B-298401

Date: August 31, 2006

Gerald H. Werfel, Esq., Pompan, Murray & Werfel, PLC, for the protester.
Dennis J. Gallagher, Esq., Department of State, for the agency.
Guy R. Pietrovito, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging a solicitation's geographic restriction is denied, where the restriction is reasonably found to be necessary for the agency to meet its needs.

DECISION

Armor Group International Training, Inc. protests the Department of State's notice that the agency intends to make a sole-source award to BSR, Incorporated for anti-terrorism driver training services based upon the agency's determination that BSR was the only known source that was capable of meeting the agency's requirements, which included a geographic restriction.

We deny the protest.

On May 30, 2006, State published on the Federal Business Opportunities (FedBizOpps) web-site its intention to negotiate and award, on a sole-source basis, an indefinite-delivery, indefinite-quantity contract to BSR for defensive training services. These training services are one part of an overall anti-terrorism training program, which is conducted at the agency's Diplomatic Security Training Center (DSTC) in Dunn Loring, Virginia. When the driver training services are required

[s]tudents and staff are required to break from their training regimen at DSTC, travel to the contractor's site, for one to six days of training, and . . . then return to the DSTC to continue their course of instruction.

Agency Report (AR), Tab 10, Draft Justification of Minimum Needs, at 2. The FedBizOpps notice identified a number of minimum requirements, including that the

facility for driving training must be within 80 miles of the United States Capitol Building, and stated that BSR was the only known source that could satisfy the agency's requirements. AR, Tab 3, FedBizOpps Notice, May 30, 2006.

Armor, whose driving facility is approximately 145 miles from the United States Capitol, argues that the 80-mile geographic limitation exceeds the agency's needs and therefore does not provide a basis for negotiating a sole-source contract with BSR. In response the agency states that the geographic limitation was established to allow for the safe and efficient conduct of training. Specifically, the agency notes that the geographic restriction

limits the drive time to approximately 1.5 hours each way allowing for students and instructors to reasonably commute for a one-day course without requiring an overnight stay. In 2005, the DSTC conducted 125 courses, training 2,200 students, 1,300 of the 2,200 students attended one-day training courses.

AR, Tab 7, Validation of Requirements Memorandum, at 2. The agency contends that permitting a distance beyond a reasonable 1-day commute would result in real costs to the agency for additional time required for training and would increase the amount of "employee productive time" lost due to increased travel time.¹ AR at 6, 11.

Armor disagrees with State's judgment regarding the geographic restriction, arguing that there has been no showing that driving an additional hour each way to and from Armor's facility would affect the agency's training needs.

The Competition in Contracting Act of 1984 (CICA) requires agencies to conduct their procurements using "full and open competition." 41 U.S.C. § 253(a)(1)(A) (2000). CICA, however, permits noncompetitive acquisitions in specified circumstances, such as when only one responsible source and no other supplies or services will satisfy the agency's requirements. See 41 U.S.C. § 253(c)(1). Here, as noted above, the agency has determined that only one source will satisfy its geographic restriction. An agency properly may restrict a procurement to an offeror or offerors within a specified area if the restriction is reasonably found to be necessary for the agency to meet its needs. See Canal Claiborne Ltd., B-244211,

¹ Initially, the agency suggested in its report that Armor was not an interested party to challenge the geographic limitation because Armor allegedly could not satisfy other requirements identified in the notice. In response the protester submitted the declaration of Armor's president, stating that Armor's facility had been improved and satisfied all of the notice's requirements, except the geographic limitation. Protester's Comments, exh. 1, Declaration of Armor's President. The agency does not dispute this declaration.

Sept. 23, 1991, 91-2 CPD ¶ 266 at 2; Pacific Dry Dock & Repair Co., B-237611.2, B-237751, Mar. 19, 1990, 90-1 CPD ¶ 302 at 6.

We find reasonable the agency's explanation supporting the 80-mile geographic limitation for these driver training services, even if this results in a sole-source procurement. As the agency notes, more than half of the students taking this training attended courses lasting only a single day. For these students and associated DSTC staff, there must obviously be some limitation upon the distance that must be commuted to allow them to participate in a single-day course. In the agency's judgment, that reasonable limitation would be a distance that a student could drive in an hour and half each way; on its face, this judgment appears to be reasonable. Although Armor disagrees with the agency's judgment with respect to its minimum need, it has not shown it to be unreasonable.

Armor also argues, for the first time in its comments, that even if the geographic restriction is required for students attending the single-day courses, there is no reason that this restriction should be applied for training courses that are provided over multiple days. Protester's Comments at 5. In this regard, the protester complains that the draft statement of work provided in the record for this procurement shows that the majority of training courses are provided over multiple days. See AR, Tab 2, Draft Statement of Work.

The agency disagrees with the protester that the single-day and multiple-day courses are separate and discrete requirements, stating that all of the driver training courses are "part of an overall training program whose principal base is the [DSTC] facility in Dunn Loring, Virginia." Agency Response to Protester's Comments at 1. In this regard, the agency states that the "driving component of all driver training is embedded in the curriculum, often encompassing other high risk hard-skill regimens such as shooting, explosives recognition and detection, and reaction to attack practical exercises." Id., attach. A, Memorandum of DSTC Assistant Director of Training, Aug. 23, 2006, at 1. The agency notes that moving students and DSTC staff from the Dunn Loring location to a contractor facility for driving training is disruptive, and that increasing the amount of travel time required for a location outside the geographic restriction is even more disruptive and would "add additional man hours to training, resulting in increased instructor requirements, longer training courses, added support requirements, reduced training efficiency, degradation in program quality, and the taxing of already overstretched staff resources." Id. The agency concludes that performing the single-day and multiple-day course in differing locations was impracticable because "of lost instructor man hours, increased student travel time, and the inability to provide the required instructional, logistical, and role player support necessary for the safe and efficient conduct of critical high risk training." Id. at 2.

In our view, although the protester disagrees with the agency's application of this geographic restriction to the multiple-day driver training courses, it has failed to

rebut the agency's explanation of why the restriction is necessary to satisfy the agency's requirements.

The protest is denied.

Gary L. Kepplinger
General Counsel