



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Dennis Marceron

File: B-270253

Date: February 21, 1996

Michael E. Snyder, Esq., James P. Campbell & Assocs., for the protester.
Nicholas P. Retson, Esq., and David S. Franke, Esq., Department of the Army, for
the agency.

John L. Formica, Esq., Office of the General Counsel, GAO, participated in the
preparation of the decision.

DIGEST

Agency's interpretation of a solicitation provision setting forth minimum
qualifications for the award of a contract to teach the German language to United
States military linguists is reasonable where the agency's interpretation is consistent
with the language of the solicitation when read as a whole, and the protester's
interpretation is not.

DECISION

Dennis Marceron protests the award of a contract to Dr. Gundrun Richmond under
invitation for bids (IFB) No. DAJA02-95-B-0149, issued by the Department of the
Army for German language instructor services at the Foreign Language Training
Center (FLTC) in Garmisch, Germany. Mr. Marceron protests that the agency
unreasonably determined that he did not meet certain special standards of
responsibility set forth in the solicitation.

We deny the protest.

The IFB, issued September 18, 1995, provided for the award of three contracts for
services as German language instructors to the three lowest-priced, responsive,
responsible bidders, with each contract having a base period of 1 year with two
1-year options. The contractors are required to conduct seven German language
courses (for a total of 1,384 hours of instruction) in each contract period. The IFB
set forth certain minimum qualifications, or special standards of responsibility,

established by the agency to measure the bidders' abilities to perform the contract. See Federal Acquisition Regulation (FAR) § 9.104-2; Tama Kensetsu Co., Ltd., and Nippon Hodo, B-233118, Feb. 8, 1989, 89-1 CPD ¶ 128. The IFB provided, for example, that in order to be considered for award, a bidder:

"[m]ust have taught [German] language at the intermediate or advanced level to English speakers for at least four years in a university, institution, language training school, or any equivalent (cumulative total from different institutions acceptable)."

The solicitation required that bidders submit with their bids information demonstrating that they met the minimum qualifications contained in the IFB.

The agency received six bids by the bid opening date. Each bid was reviewed by the agency to determine, among other things, whether the bidder met the IFB's stated minimum qualifications. Upon reviewing Mr. Marceron's low bid, the agency found that his experience consisted of 11 years of teaching German to English-speaking students at the high school level, 5 years of teaching basic German at a community center, and 1 year of teaching German to English-speaking students at the university level. The agency concluded that Mr. Marceron did not have experience equivalent to that required by the IFB, and awarded contracts to the next three low bidders, each of whom had taught previously at the FLTC and have significant experience teaching at the university level.

Mr. Marceron protests the agency's determination that he does not meet the IFB's minimum qualifications, arguing that a "[h]igh school is an institution within the meaning of the requirements." The protester contends that because of the use of the word "institution" in setting forth the requisite minimum qualifications, the IFB required only that bidders have 4 years of teaching experience in "an institutional setting" to be considered responsible, and that "if the [A]rmy wished to limit relevant experience to university level teaching, the word 'institution' should not have been included in the specification." The protester argues in the alternative that, regardless of the language of the solicitation, he is qualified to teach at the FLTC and points out that he has taught there before, albeit for less than 2 months in the capacity of a substitute.

The agency disagrees with the protester's interpretation of the IFB requirements concerning teaching experience. The agency explains that the FLTC provides intensive refresher and enhancement language training to linguists in the United States military and civilian personnel. The agency points out that the individuals who attend the FLTC are graduates of the Defense Language Institute, and as such each individual has completed approximately 1,560 hours of language training in a 1-year period and had achieved a fluency in German equivalent that taught at the

intermediate level at a university.¹ The agency argues that in the context of this procurement, the requirement for teaching experience "at the intermediate or advanced level . . . in a university, institution, language training school, or equivalent" cannot reasonably be read to encompass teaching experience at a high school level, but rather can only reasonably be read as including experience equivalent to teaching at the intermediate or advanced level in a university. The agency concludes here that the qualifications requirement simply cannot be considered, when the solicitation is read as a whole, to include teaching experience at an intermediate or advanced high school level.

When a dispute exists as to the actual meaning of a solicitation requirement, our Office will resolve the dispute by reading the solicitation as a whole and in a manner that gives effect to all of the solicitation's provisions. Mobile Medic Ambulance Serv., Inc., B-259045, Feb. 15, 1995, 95-1 CPD ¶ 92. Where there is some uncertainty as to the precise meaning of a term used in stating the solicitation's requirements, the application by agency evaluators of a common sense definition, based upon the agency's general needs as reflected in the solicitation, is reasonable. Anadigicom Corp., B-235349, Aug. 18, 1989, 89-2 CPD ¶ 151.

We find that the solicitation required bidders to have, at a minimum, teaching experience at the intermediate or advanced level at a university, or equivalent experience at an institution or language training school. The solicitation's statement of work expressly provided that the instructors would be teaching at the FLTC, which, as mentioned previously and as the protester was aware because of his 2-month tenure as a substitute teacher at the FLTC, would involve teaching German to individuals who have already completed a significant amount of German language course work and achieved a certain fluency in German. It is apparent that teaching the German language at a high school is not equivalent to teaching German at the intermediate or advanced level at a university.

The alternative reading propounded cannot reasonably be considered as consistent with the solicitation's intent. For example, if the protester's interpretation were adopted, experience teaching at the "intermediate or advanced level" at an "institution," such as an elementary school, or a "language training school" for elementary school-age students, would be acceptable. Such an interpretation defies common sense and thus cannot be considered reasonable.

In sum, the agency reasonably interpreted the IFB as requiring that bidders have experience teaching at the intermediate or advanced level at a university or its

¹ For purposes of comparison, a high school student may complete 180 hours of instruction per year, for a total of 540 hours of instruction in 3 years of high school or 720 hours in 4 years of high school.

equivalent, and therefore, because Mr. Marceron concededly does not have such experience, acted reasonably in concluding that Mr. Marceron did not have the requisite experience. That Mr. Marceron believes himself capable of teaching at the FLTC, regardless of the minimum qualifications set forth in the IFB, simply does not render the agency's rejection of his bid for failing to meet such qualifications improper. See Prime Mortgage Corp., 69 Comp. Gen. 618 (1990), 90-2 CPD ¶ 48.

The protest is denied.

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