



GAO

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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Knowledge Connections, Inc.

File: B-298172

Date: April 12, 2006

Barry Roberts, Esq., for the protester.
Virginia G. Farrier, Esq., Department of Homeland Security, for the agency.
Sharon L. Larkin, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

GAO has no jurisdiction to consider protest of solicitation for services issued by the Transportation Security Administration since that agency is subject to the Federal Aviation Administration's Acquisition Management System that is expressly exempted from GAO's bid protest jurisdiction.

DECISION

Knowledge Connections, Inc. (KCI) protests the terms of solicitation No. HSCEAM-06-R-00014, issued by the Transportation Security Administration (TSA) for reservation center support services.

We dismiss the protest.

The Aviation and Transportation Security Act (ATSA), relevant parts of which are set forth at 49 U.S.C. § 114 (2004 Supp.), established in 2001 the TSA as a new agency within the Department of Transportation (DOT) and tasked it with security responsibilities for all modes of transportation overseen by the DOT and other related activities. Pursuant to 49 U.S.C. § 40110(d) (2005 Supp.), TSA procurements are subject to the Federal Aviation Administration's (FAA) Acquisition Management System (AMS). Procurements subject to the AMS are specifically exempted from our bid protest jurisdiction. 49 U.S.C. § 40110(d)(2)(F). Although the Homeland Security Act of 2002 transferred the TSA to the Department of Homeland Security, Pub. L. 107-296, 116 Stat. 2135, 2173 (2002), the Act did not alter or amend the exemption from our bid protest jurisdiction.

In the past, we have found that the bid protest exemption did not apply to protests involving TSA solicitations or contracts for services, which therefore remained subject to our bid protest jurisdiction. Resource Consultants, Inc., B-290163, B-290163.2, June 7, 2002, 2002 CPD ¶ 94 at 5. In reaching this conclusion, we found that the ATSA limited the bid protest exemption to acquisitions involving “equipment, supplies, and materials.” Id. In this regard, the ATSA states:

(o) ACQUISITION MANAGEMENT SYSTEM.—The acquisition management system established by the Administrator of the Federal Aviation Administration under section 40110 shall apply to acquisitions of equipment, supplies, and materials by the Transportation Security Administration, or, subject to the requirements of such section, the Under Secretary may make such modifications to the acquisition management system with respect to such acquisitions of equipment, supplies, and materials as the Under Secretary considers appropriate, such as adopting aspects of other acquisition management systems of the Department of Transportation.

49 U.S.C. § 114(o) (emphasis added).¹ However, in 2005, Congress enacted Public Law 109-90, 119 Stat. 2064 et seq., which at Title V provides as follows:

Sec. 515. For fiscal year 2006 and thereafter, the acquisition management system of the [TSA] shall apply to the acquisition of services, as well as equipment, supplies, and materials.

119 Stat. 2084. Since Congress has now provided that TSA acquisitions for services are covered by the AMS, KCI’s protest of the solicitation for these services is exempt from our bid protest jurisdiction. 49 U.S.C. § 40110(d)(2)(F).

The protest is dismissed.

Anthony H. Gamboa
General Counsel

¹ Our decision in Resources Consultants, Inc., supra, cited to section 101(o) of Public Law No. 107-71 (2001), which was later set forth at 49 U.S.C. § 114(o).