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**Comptroller General
of the United States**

**United States General Accounting Office
Washington, DC 20548**

Decision

Matter of: Flight Safety International

File: B-290595

Date: August 2, 2002

William J. Nugent for the protester.

Maj. Leslea T. Pickle and Maj. Deborah L. Collins, Department of the Air Force, for the agency.

Katherine I. Riback, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that solicitation for pilot training is defective because it lacks a separate contract line item number (CLIN) for the cost of flight simulator modifications is denied where the agency provided sufficient information in the solicitation to allow offerors to reasonably use their business judgment to amortize and recover the costs of such modifications in its CLINs covering the pilot training.

DECISION

Flight Safety International protests the decision of the Department of the Air Force to issue request for proposals (RFP) No. F41689-02-R-0008 for academic and simulator C-21A pilot training without a separate contract line item number (CLIN) to address the contractor's cost for outfitting its Federal Aviation Administration (FAA) Level C configured cockpit flight simulators with a C-21A configured cockpit. Flight Safety contends that this approach places an unreasonable amount of risk on the offerors.

We deny the protest.

A draft RFP for a follow-on contract for C-21A academic and simulator pilot training was issued on February 12, 2002. The pilot training included both classroom and simulator instruction. The contractor would be required to conduct training at its own facility using a contractor-furnished flight simulator with the capability for C-21A configuration. The contractor would also be responsible for developing and using computer-aided instruction software in its classroom presentations and in student self-study.

In response to the draft RFP, on February 26, Flight Safety submitted a question, in which it stated that a separate CLIN was required to be included for the simulator modifications required to convert existing simulators to the current configuration of a C-21A. The agency held a pre-solicitation conference on March 19 and 20 with potential offerors. On April 4, the agency electronically posted “Industry Day Questions and Answers,” which included an answer to Flight Safety’s question, denying Flight Safety’s request and explaining that the offerors were to amortize the cost of the simulator modifications via student throughput at their own discretion. The agency further stated that it expected to see a decrease in price per student once the simulator modification costs had been recouped. Agency Report, Tab 6, Industry Day Questions and Answers, Answer 5.

On April 22, the agency issued the RFP, which did not include a separate CLIN for the required simulator modifications. The solicitation contained the estimated annual student load based on historical data. RFP, Statement of Work (SOW) ¶ 1.1.1.1. On May 2, Flight Safety again argued that a separate CLIN for the simulator modifications was required because the simulator modifications are requested by and are for the sole benefit of the Air Force. Agency Report, Tab 8, RFP Questions, at 2. On May 14, the agency once again denied the protester’s request and stated that the costs of the simulator modifications were to be recovered in accordance with the offeror’s business judgment. The agency indicated that historically the numbers for C-21A student throughput have been stable and there is no indication that these numbers will decrease anytime in the near future. To further assist the prospective offerors, the agency supplied the actual historical student loads for fiscal years 2000 and 2001. Agency Report, Tab 9, RFP Questions and Answers at 4. This timely protest of the agency’s refusal to include a separate CLIN to modify simulators followed.

Risks are inherent in procurements, and an agency may properly impose substantial risk upon the contractor, even where the risk in question is financial in nature. Bean Dredging Corp., B-239952, Oct. 12, 1990, 90-2 CPD ¶ 286 at 3. There is no legal requirement that a solicitation be drafted so as to eliminate all performance uncertainties; the mere presence of risk does not render a solicitation improper. Braswell Servs. Group, Inc., B-278521, Feb. 9, 1998, 98-1 CPD ¶ 49 at 3. Thus, offerors are reasonably expected to use their professional expertise and business judgment in anticipating risks and computing their offers. McDermott Shipyards, Division of McDermott, Inc., B-237049, Jan. 29, 1990, 90-1 CPD ¶ 121 at 7. In this regard, a procuring agency must provide sufficient information in a solicitation to enable offerors to compete intelligently and on a relatively equal basis. Braswell Servs. Group, Inc., *supra* at 3.

While the protester is correct that the RFP imposes risk on the contractor by virtue of the uncertainty surrounding the number of pilots that will receive training each year and whether any option years will be exercised, these facts alone do not render the RFP defective. The agency has provided information to assist prospective

offerors in preparing their proposals, such as the estimated annual student load and the actual student loads from fiscal years 2000 and 2001. The agency also notes that historically the projected student loads have been stable in the last two 5-year contracts. There is no contention that the agency has other significant information that it has failed to make available. Under the circumstances, the agency provided sufficient information in the solicitation and in response to questions to enable offerors to prepare their offers intelligently and without undue risk, and does not expose offerors to excessive financial risk.¹ Thus, the agency was not required to create a separate CLIN for outfitting cockpit flight simulators with a C-21A configured cockpit, but could require offerors to amortize and recover this cost in the student training CLINs.

Flight Safety points out that the solicitation included a separate CLIN for the contractor's cost for computer-aided instruction software development. Flight Safety contends that if the agency found a separate CLIN appropriate in the instance of computer-aided instruction development, then it should also be found appropriate for modifications to flight simulators. The agency responds that it made the determination to include a separate CLIN for computer-aided instruction software development because the software would become the government's property once it was developed; in contrast, the contractor-converted C-21A simulators will be provided and maintained solely by the contractor and will continue to be the contractor's property at contract expiration. Contracting Officer's Statement at 4. We find no basis to question the agency's distinction.²

The protest is denied.

Anthony H. Gamboa
General Counsel

¹ Moreover, the agency report states, and Flight Safety has failed to rebut, that the flight simulators can be converted from a C-21A to a Lear commercial configuration in a minimal amount of time (approximately 1 day or overnight), which would enable the contractor to use the same simulator for commercial clients when it is not being used by the Air Force C-21A contract. The agency notes in this regard that it schedules classes around the contractor's commercial flight training schedule. Contracting Officer's Statement at 4. This would appear to mitigate the contractor's risk.

² Flight Safety also contends that the RFP does not address the contractor's ability to recover costs resulting from late training cancellations or "no shows." The agency states that it will amend the RFP to address this issue, which renders this protest ground academic.