

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

11/14/89
PL-II
30116

FILE: B-215029**DATE:** January 2, 1984**MATTER OF:** International Security Technology, Inc.**DIGEST:**

1. Protester alleging that solicitation calling for requirements contract covering different agencies' needs for ADP services unduly restricts competition fails to meet its burden of showing that agency's method of soliciting its needs lacks a reasonable basis where protester does not dispute agency's cost-saving justification and offers no evidence to support its position that services under requirements contract will not meet agencies' particularized needs.
2. Protest alleging that solicitation unduly restricts competition because small businesses are effectively excluded from competition is without merit since, even assuming allegation is valid, agency is not obligated to compromise the government's needs in order to maximize competition by small businesses.
3. Solicitation is not vague or ambiguous where test task orders described in solicitation provide sufficient detail of agencies' requirements to permit offerors to prepare level-of-effort estimates on an equal footing.

International Security Technology, Inc., protests any award of a contract by the General Services Administration (GSA) under request for proposals (RFP) No. AT/TC 19669 for automatic data processing (ADP) risk analysis and security audit services. The protester contends that (1) the solicitation unduly restricts competition

030909

and violates the Small Business Act because it effectively precludes small businesses from competing; and (2) the solicitation is vague and ambiguous, principally because the benchmark task descriptions fail to specify in sufficient detail the type of facilities at which the work requested is to be performed. We deny the protest.

The RFP is for ADP risk analysis and security audit services to be provided as required to all GSA Regions and to those federal agencies which have agreed to allow GSA to act as their procurement agent for these services. The solicitation stated that the selected firm is to provide risk analysis and security audit services at a variety of computer sites or installations, telecommunications sites and word processing centers based on task orders to be issued by GSA at the request of the users. As required, the firm must deliver such work products as risk analysis reports, contingency and disaster recovery plans, vulnerability analyses and ADP security plans. The solicitation warned that the timing and size of the task orders could not be predicted and stated that the services would require a diversity of skills and knowledge about a variety of data processing systems and the ability to perform these services at different locations throughout the country.

International alleges that these services cannot be provided properly under a requirements contract because a single contractor cannot adequately respond to different agencies' particularized requirements. International further alleges that the RFP unduly restricts competition and violates the Small Business Act because only a few large firms are capable of providing services of the scope required. Specifically, International argues that the following provisions of the RFP effectively exclude small businesses: the solicitation contemplates that the contractor will use multiple offices to support the contract; based on the estimated work-hours required, the contractor would have, on average, \$1.5 to \$2 million in unpaid invoices outstanding; and the contractor must have a large staff in place to respond to the estimated level of work, with no assurance that actual task orders will equal the estimated requirements listed in the solicitation.

International argues that participation by small businesses as subcontractors also is inhibited because the contractor is not required to subcontract under the RFP and is given great discretion in selecting a subcontractor for

tasks under \$25,000. In addition, International maintains that the RFP provision requiring the contractor to submit a proposal within 10 days of issuance of a particular task order does not allow sufficient time to solicit subcontractors.

GSA states that the requirements contract called for by the RFP is part of its Contract Services Program, a nationwide program to provide ADP-related services to federal agencies through use of consolidated requirements contracts. The program was established to implement GSA's responsibility under the Brooks Act, 40 U.S.C. § 759(a) (1982), to provide for economic and efficient acquisition of ADP equipment and related services. GSA states that the multiregional requirements approach is used because it results in general cost savings based on economies of scale and volume buying, as well as procurement-related cost savings due to eliminating the need for multiple procurements.

Determination of the government's minimum needs and the method of accommodating them are within the contracting agency's discretion and will not be disturbed where the agency demonstrates a reasonable basis for its determination. E.g., Maremont Corporation, 55 Comp. Gen. 1362, 1376 (1976), 76-2 CPD ¶ 181; Bowne Time Sharing, Inc., B-190038, May 9, 1978, 78-1 CPD ¶ 347. Specifically in the area of ADP-related procurements, the Brooks Act vests broad discretion in GSA over government procurement practices. See International Business Machines Corporation, B-193527, Oct. 23, 1979, 79-2 CPD ¶ 280. When, as here, a protester alleges that a solicitation unduly restricts competition, the protester must demonstrate that the challenged restrictions are not reasonably related to the government's minimum needs. See, e.g., Memorex Corporation, B-187497, Mar. 14, 1977, 77-1 CPD ¶ 187.

We believe that GSA has established a reasonable basis for using a consolidated requirements contract on the ground that it allows acquisition of the required services at substantial cost savings, consistent with the public policy expressed in the Brooks Act. The protester has not met its burden of showing that the agency's decision to use this type contract for these needs was unreasonable. International does not challenge GSA's view that this solicitation will result in cost-savings and has offered no evidence to support its assertion that the government's needs will not be met under a requirements contract. Further, assuming the use of

a requirements contract instead of individual procurements effectively excludes small businesses, as International contends, GSA was not required to compromise the government's needs in order to maximize competition by small businesses.^{1/} See, e.g., Philadelphia Biologics Center, B-209660, June 1, 1983, 83-1 CPD ¶ 589. Moreover, with certain exceptions not relevant here, there is no requirement in the Small Business Act, 15 U.S.C. §§ 637 et seq. (1982), or federal procurement regulations that any particular procurement be set aside for small businesses. See, e.g., Interior Steel Equipment Co., B-212253, Nov. 14, 1983, 83-2 CPD ¶ 556. As a result, we find the protester's allegations to be without merit.

The second basis for the protest is that the solicitation is vague and ambiguous in several respects. The protester's principal contention deals with the adequacy of the solicitation's description of three hypothetical task orders called "benchmark tasks" set out in the solicitation. The solicitation requires that offerors submit proposals showing the level of effort and cost (including the number and cost of staff work-hours, travel and computer time, and other supplemental resources) which they estimate would be required to perform the three test task orders; the offerors are not required to produce the actual task analysis studies called for under the test task orders.

The protester contends that the three test task orders inadequately describe the type of facilities at which the

^{1/}The protester has not shown that small businesses will be excluded from subcontracting, as it maintains. Consistent with 15 U.S.C. § 637(d), the RFP requires the contractor to submit a detailed subcontracting plan including percentage goals for using small businesses as subcontractors. Each offeror's plans for subcontracting are considered as part of the evaluation. In addition, we see no reason why the request that a proposal be submitted within 10 days of the issuance of a task order would inhibit subcontracting. As GSA reports, there is nothing to prevent the prime contractor from soliciting bids from potential subcontractors leading to blanket arrangements with several subcontractors, thus establishing a process where subcontracts can be awarded promptly after the task order is issued.

work is to be performed. As a result, the protester argues, it is either impossible to determine the level of effort required to perform under the task orders, or, assuming that each offeror formulates its proposal on the basis of its own assumptions regarding the scope of the task orders, the various offers cannot be evaluated on an equal footing because their underlying assumptions may differ.^{2/}

As a general rule, the contracting agency must give offerors sufficient detail in a solicitation to enable them to compete intelligently and on a relatively equal basis. Klein-Sieb Advertising and Public Relations, Inc., B-200399, Sept. 28, 1981, 81-2 CPD ¶ 251. In this case, we see no basis on which to question the agency's position that the test task orders are sufficiently detailed to ensure that all offers are based on the same assumptions regarding the general scope of the work required. The task orders describe the location of the facility at which the work is to be performed, the type of computer equipment in operation, and the type and scope of work performed at the facility, all factors which the protester identifies as necessary to developing a level-of-effort estimate.

In addition, while greater detail might be helpful to an offeror, the solicitation states that the test task orders reflect the typical level of detail in actual task orders; thus, implicitly, they are the kind of task orders to which the successful offeror will be expected to respond. Further, since none of the eight offerors which responded to the solicitation has alleged that the test task orders were insufficiently detailed, it does not appear that the solicitation inhibited competition or prevented offerors from preparing proposals properly. See Diesel-Electric Sales & Service, Inc., B-206922, July 27, 1982, 82-2 CPD ¶ 84. As a result, we conclude that the protester has failed to show that the description of the test task orders was unclear or prevented competition on an equal footing.

^{2/}After the protest was filed, an amendment to the solicitation was issued which in part substituted three different test task orders for those originally included in the solicitation. The protester contends that the amended test task orders are defective for the same reason alleged with regard to the original solicitation.

The protester also contends that the solicitation provision requiring submission of plans for establishing additional offices in areas of work concentration is unclear, because the particular agencies at which work will be performed are not known until actual orders are placed. We find this allegation to be without merit. The provision is aimed at ensuring that offerors propose an acceptable general plan for providing services over a wide geographic area, as will be required under the contract; the solicitation does not require offerors to identify a particular geographic location for any additional facilities.

The protester raises a number of other issues which we likewise find to be without merit. First, International alleges that the solicitation provision for training of contractor personnel is unclear regarding which training course is required and which employees must take it. In our view, the solicitation provision is sufficiently clear to indicate that all contractor personnel assigned to tasks under the contract are to take the specified training course. In addition, we do not agree that the provision allowing use of a specified Navy course or its "functional equivalent" is vague with regard to which course would satisfy the training requirement, since the adequacy of an alternative training course reasonably may be determined by comparing it to the specified Navy course.

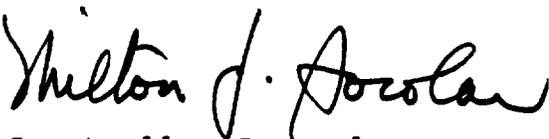
Second, the protester alleges that the task order pricing scheme is unclear because, while one provision in the solicitation requires prices to be determined according to the schedule of rates submitted by the contractor, another provision specifies that task orders over \$100,000 are subject to certain regulatory provisions regarding cost and pricing data. We see no inconsistency between the provisions, since the cost and pricing data regulatory provisions do not affect the rates charged under the contractor's pricing schedule.

The protester's final two allegations concern the work-hours estimates furnished by GSA as the basis for the offerors' schedule of rates and the solicitation provision for evaluating the offerors' personnel. The protester alleges that the work-hours estimates are ambiguous because they do not explain the basis for the agency's estimates, or why the relative number of work-hours required from each skill level varies from year to year over the 4-year life of the contract. International also argues the requirement that offerors submit resumes for only five of their employees is insufficient to ensure the use of qualified personnel.

B-215029

GSA reports that the work-hours estimates are based on actual past requirements, which show variations from year to year in the relative hours required from different skill levels. International has not rebutted the agency's explanation of the estimates. With regard to the evaluation of personnel capability, the solicitation requires offerors to submit, in addition to the five resumes referred to by International, an overall management plan demonstrating the offerors' ability to provide qualified personnel. Thus, we find International's contentions to be without merit.

We deny the protest.

for 
Comptroller General
of the United States