

*Susan Harding*  
*1/17/78*

**DECISION**



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

04746

FILE: B-190-39

DATE: January 17, 1978

MATTER OF: AIL West

DIGEST:

1. Contention that agency's delay of award of contract after pre-award survey was completed was to encourage successful offeror to proselytize competitor's employees is without merit where successful offeror produced evidence of assured availability of qualified personnel at time of preaward survey.
2. Allegation that contracting officer ignored information pertinent to determination of successful offeror's responsibility, which is first raised in protester's response to agency's report on protest, is untimely under GAO Bid Protest Procedures and will not be considered on merits because protest procedures do not contemplate piecemeal development of protest issues.

AIL West (AIL) protests the award of a contract by Warner Robins Air Logistics Center, Robins Air Force Base, Georgia (WRALC) to Telos Computing, Inc. (Telos) under request for proposals (RFP) F 09603-77-R-0859. The RFP was issued on April 25, 1977, and solicited offers for on-site maintenance service and in-plant/ vendor repair in support of computers, peripherals and related equipment located at the WRALC Engineering Test Facility for an initial contract period from October 1, 1977, through September 30, 1978 with two follow-on option periods from October 1, 1978 through September 30, 1980, and a further option to extend the period of performance an additional 120 days beyond the expiration of the second follow-on year. Following receipt of best and final offers on June 22, 1977, and a favorable pre-award survey of Telos, the low offeror, the contract was awarded to Telos on September 19, 1977.

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The protester contends that Telos could not have furnished evidence of capability to comply with the personnel training and experience requirements of the RFP without proselytizing AIL's employees. Although AIL agrees with the Air Force statement that proselytizing of employees is a fairly common practice within the industry and is not against the law, AIL asserts that by not effecting award until September 19, 1977, when award could have been made at any time subsequent to the July 10, 1977 receipt of the pre-award survey results, WRALC was "encouraging and rewarding" Telos in this practice, "in the self-interest of continued uninterrupted service" at WRALC.

We fail to see how Telos was benefited by the timing of the award. The RFP required prospective contractors to demonstrate during the pre-award survey evidence of assured availability of necessary technical skills. The preaward survey of Telos was conducted on July 8, 1977. At that time, Telos produced evidence satisfactory to the preaward survey team of its ability to furnish sufficient qualified personnel in compliance with the terms of the RFP. Therefore we find this aspect of the protest to be without merit.

In its response to WRALC's report on this protest, AIL also claims that the contracting officer ignored information pertinent to the determination of Telos' responsibility. The record indicates that the preaward survey team's recommendation of award to Telos was based in part on Telos' having entered into bilateral agreements with 12 potential employees whereby each employee agreed to accept employment with Telos at WRALC for a stated wage, contingent upon selection by October 1, 1977. Four of the potential employees were then employed by AIL, the then-incumbent contractor. The protester states that 3 of these 4 employees withdrew their acceptances of employment by telegrams to Telos around July 5, 1977, and that the contracting officer refused to accept copies of the telegrams delivered to him. AIL questions whether the affirmative determination of Telos' responsibility

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was based on Telos' using only the aforementioned AIL employees, whether the preaward survey team was aware of the telegrams, and whether the contracting officer chose to ignore the information.

We will not consider this element of AIL's complaint. Section 20.2(b)(2) requires bid protests to be filed within 10 days after the basis of the protest is or should have been known. The matter of the telegrams obviously was known to AIL well prior to the date its protest was filed. In our opinion, AIL could and should have advanced this argument in its initial timely protest letter. Our procedures do not contemplate the unwarranted piecemeal development of protest issues. See Radix II, Inc., B-186999, February 8, 1977, 77-1 CPD 94.

The protest is denied.

  
Deputy Comptroller General  
of the United States