



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Computer Maintenance Operations Services

File: B-255530

Date: February 23, 1994

Lawrence M. Raymer for the protester.
Wayne Evelhoch, Esq., Department of Energy, for the agency.
Paul E. Jordan, Esq., and Mary G. Curcio, Esq., Office of
the General Counsel, GAO, participated in the preparation of
the decision.

DIGEST

Solicitation requirement for security clearance at time of contract award does not unduly restrict competition where contract performance will involve classified material, and will be impossible if the awardee's personnel do not have clearance at that time.

DECISION

Computer Maintenance Operations Services (CMOS) protests as unduly restrictive a requirement for security clearance at the time of award under request for proposals (RFP) No. DE-RP04-94AL90539, issued by the Department of Energy (DOE) for data processing equipment maintenance services at the DOE Albuquerque Operations Office. CMOS argues that the RFP should be amended to allow participation by offerors that have the ability to obtain the security clearance within 90 days after award.

We deny the protest.

The RFP, issued September 30, 1993, contemplated award of a fixed-price contract for maintenance services for a 1-year base period and up to 4 option years. The government-owned data processing equipment on which the successful contractor is to perform maintenance is located in an exclusion area where classified information, including secret restricted data, is processed in support of DOE's nuclear weapons mission. All personnel having access to the exclusion area or who will work on classified computer systems must have a clearance equal to the highest classification of materials in the area or system. A DOE "Q" clearance is required for access to materials classified as "secret." Thus, the RFP

provides that all contractor personnel performing under the contract are required to hold an active DOE "Q" clearance. The RFP required offerors to demonstrate the availability of "Q" cleared personnel to perform and advised that offerors that could not comply with the requirement would not be considered responsible.

The RFP was issued to 21 prospective offerors, 3 of which submitted proposals by the November 3 closing date. CMOS did not submit a proposal. Instead, on October 22, it filed a protest with our Office arguing that the security requirement restricted competition. CMOS, which apparently has no personnel who possess a "Q" clearance, contends that the agency should allow offerors to compete if they can obtain clearances within 90 days after award.¹

Generally, the fact that a requirement may be burdensome or even impossible for a particular firm to meet does not make it objectionable if it properly reflects the agency's minimum needs. Hollander Assocs., B-237164, Feb. 1, 1990, 90-1 CPD ¶ 135. Here, it is clear that a security clearance is necessary for performance of the contract and CMOS does not challenge that need. Rather, CMOS challenges only the need for a clearance at the time of award.

With regard to the need for clearance at the time of award, DOE explains that data processing is crucial to its ability to manage and control its missions, and the availability of computer equipment maintenance services is essential to ensure that operations can be continued without interruption. Therefore, computer maintenance services must begin immediately upon the expiration of the current contract, and it is not possible to provide an additional 90 days after

¹In its comments to the agency report, CMOS for the first time contends that DOE should allow companies to apply for clearance prior to any contract award, so that they can qualify for future contracts. This represents a new protest ground concerning an alleged solicitation impropriety. See Northwestern Travel Agency, Inc., B-244592, Oct. 23, 1991, 91-2 CPD ¶ 363. Where a protester initially files a timely protest, and later supplements it with new and independent grounds of protest, the later raised allegations must independently satisfy the timeliness requirements. See Teltara, Inc., B-240888.2, Jan. 15, 1991, 91-1 CPD ¶ 40. Our regulations do not contemplate unwarranted piecemeal presentation or development of protest issues. Id. Since this ground of protest was not raised prior to the November 3 closing date for receipt of proposals, it is untimely. In any event, we see no basis to question DOE's decision not to issue security clearances to potential offerors who may never have any need for access to a restricted area.

award for obtaining clearances. In addition, DOE points out that processing security clearances can take longer than 90 days. Specifically, DOE states that even if a contractor's personnel meets the eligibility requirements, it takes an average of 90 to 120 days to obtain a "Q" clearance and, if a background investigation raises concerns about clearance eligibility, the process can take much longer.

Based on the agency's need for continued data processing, we think that the record establishes that contractor security clearance at the time of contract award is required to meet the agency's minimum needs. Accordingly, we have no basis to object to the security clearance requirement in this solicitation.

The protest is denied.

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for Robert P. Murphy
Acting General Counsel