



The Comptroller General  
of the United States

Washington, D.C. 20548

Murphy

## Decision

Matter of: A. T. Kearney, Inc.

File: B-225708

Date: May 7, 1987

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### DIGEST

Where a protester alleges that an evaluation factor requiring knowledge of specific agency sites unduly restricts competition by limiting it to current agency contractors with security clearances allowing access to the sites, but the information necessary for proposal preparation is available from public sources, the protest is without merit. This is because there is no evidence that the necessity for site-specific information causes any competitive disadvantage to the protester.

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### DECISION

A. T. Kearney, Inc. protests the evaluation criteria included in request for proposals (RFP) No. DE-RP01-87EH79003, issued January 8, 1987, by the Department of Energy (DOE). The solicitation is for technical assistance in conducting an environmental survey of all DOE operating facilities and in analyzing issues relating to compliance with environmental statutes and regulations. The protester argues that evaluation of the offerors' knowledge of DOE sites unduly restricts competition.

We deny the protest.

DOE plans to conduct an environmental survey of 40 operating facilities to enable it to develop a comprehensive, long-range plan to correct environmental problems and reduce risks. The RFP sought technical assistance in conducting the survey and subsequent analyses and reports on environmental compliance issues. The solicitation provided that technical proposals would be evaluated under four criteria--technical approach, relevant experience, personnel and management, and corporate resources. The technical approach criterion, which is at issue in this protest, includes two subcriteria: (1) technical approach including discussion of environmental compliance regulations and requirements with respect to the statement of work, and (2) technical approach

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including discussion of DOE sites, operations, and activities, and the relationship of environmental regulations and requirements to DOE sites, operations, and activities.

In the solicitation, DOE described application of the technical approach criterion as follows:

"Each offeror will be evaluated on the offeror's technical approach and understanding of the Statement of Work, environmental compliance regulations and requirements, and DOE sites, operations, and activities. The evaluation will consider the comprehensiveness of the approach, the scientific soundness of the proposal, and the relevance of the discussion to DOE's environmental survey program. Offerors should include innovative approaches to performing the work, if deemed appropriate."

A. T. Kearney protested the solicitation to our Office on February 6, and did not submit a proposal by the February 9 closing date.

A. T. Kearney contends that by evaluating offerors' understanding of DOE sites, the agency in effect restricts the competition to current DOE contractors, because only these firms have the security clearances necessary to inspect the sites. The protester states that information about specific sites is neither necessary nor helpful in a determination of the technical capabilities of offerors. According to A. T. Kearney, demonstrated knowledge of environmental survey skills and capability at any potential hazardous waste site are important to this determination, not knowledge of particular DOE sites. The protester seeks either removal of the requirement for site-specific knowledge or access to the sites for all potential offerors.

When a protester challenges specifications as unduly restrictive of competition, the procuring agency bears the burden of presenting prima facie support for its position that the restrictions are necessary to meet its actual minimum needs. This requirement reflects the agency's obligation to create specifications that permit full and open competition to the extent consistent with the agency's actual needs. 41 U.S.C. § 253a(a) (Supp. III 1985). The determination of the government's minimum needs and the best method of accommodating those needs are primarily matters within the contracting agency's discretion. Consequently, once the agency establishes support for the challenged specifications, the burden shifts back to the protester to show that the specifications in dispute are clearly

unreasonable. DSP Technology, Inc., B-220593, Jan. 28, 1986, 86-1 CPD ¶ 96.

DOE states that some of its operations are unusual, including the reprocessing and enrichment of nuclear materials and the use of materials such as beryllium and tritium. The agency apparently believes that the firm selected to provide environmental support services should understand and propose technical services relevant to DOE's particular circumstances. We find it unnecessary to evaluate this asserted justification for the questioned RFP provision to decide whether the provision is unduly restrictive, because we do not find the provision to be restrictive in the first instance.

In its report on the protest, DOE contends that pre-proposal site visits are both impracticable and unnecessary. The agency lists a number of unclassified, publicly available technical works, for example, the National Energy Plan and DOE's annual reports to the Congress, that generally describe DOE sites, operations, and activities, including their known and potential effects on the environment. The agency also listed numerous sources of publicly available information about the environmental aspects of individual sites, for example, environmental impact statements. DOE argues that experienced offerors can develop an understanding of the specific environmental concerns related to DOE sites, operations, and activities from such literature, so the procurement is not effectively restricted to current contractors with access to DOE facilities.

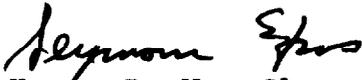
This is supported by the instructions DOE provided to its technical evaluation committee. In scoring the technical approach criterion, evaluators were instructed to assess offerors' understanding of technical issues, their description of necessary interdisciplinary skills, their specific plans for accomplishing the work, and other considerations; there is no mention of or emphasis on knowledge regarding specific sites. Also, as DOE points out, the RFP specifically refers to the need for the successful offeror to obtain necessary security clearances, implying that there is no requirement or expectation that offerors will already have such clearances.

While any specification or solicitation requirement is restrictive in the sense that something is required of offerors, we only consider protests of restrictions that have an effect on competition, such as where a restriction works to the disadvantage of a protester in seeking to contract with an agency. See Mid-Atlantic Service & Supply Corp., B-218416, July 25, 1985, 85-2 CPD ¶ 86. Such a specification may be unduly restrictive. Here, A. T.

Kearney has not suggested that it is in any way disadvantaged in obtaining publicly available information for the preparation of its proposal. Rather, it contends that in other DOE procurements in which offerors were required to have some knowledge of specific sites, the agency has used the requirement to exclude firms that did not have current access to them.

Agencies may not give more importance to specific matters in evaluating proposals than offerors would reasonably expect, based upon the evaluation factors disclosed in the RFP. Coopers & Lybrand, B-224213, Jan. 30, 1987, 66 Comp. Gen.     , 87-1 CPD ¶ 100; DBA Systems, Inc., B-224306, Dec. 31, 1986, 86-2 CPD ¶ 722. Based upon the evaluation factors listed in this RFP, DOE could not reasonably exclude or penalize otherwise qualified offerors because they lack knowledge about DOE sites available only through an inspection. The fact that DOE allegedly has unreasonably applied evaluation factors in other procurements does not provide grounds for sustaining a protest of this procurement.

We deny the protest.

*for*   
Harry R. Van Cleve  
General Counsel