



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: G. S. Link and Associates
File: B-229604; B-229606
Date: January 25, 1988

DIGEST

1. Solicitation requirement for security clearance prior to contract award does not unduly restrict competition where contract performance will involve classified materials and performance would be impossible unless the contractor's employees have security clearance.
2. Firm that is not a prospective bidder because it cannot meet a legitimate solicitation requirement is not an interested party under the General Accounting Office's Bid Protest Regulations to protest the propriety of other solicitation provisions.

DECISION

G. S. Link and Associates protests the requirement for a Department of Energy (DOE) security clearance prior to contract award in solicitations issued on behalf of DOE by the United States Government Printing Office (GPO) for programs 1266-S and 1273-S. Link also protests the solicitations' provision giving DOE complete control over the approval of vouchers.

We deny the protest in part and dismiss it in part.

The solicitation for program 1266-S contemplates the award of a 2-year requirements contract for the procurement of technical manuals and duplicating services as requisitioned by the DOE Knolls Atomic Power Laboratory. The solicitation for program 1273-S was issued for a 2-year requirements contract to produce books and pamphlets as requisitioned by the same DOE laboratory. Both proposed contracts would require copy pickup, film making, printing, binding, packing, labeling, and distribution. Link contends that the requirement in issue unduly restricts competition because DOE will not initiate security clearance action unless a bidder already has received notice of contract award, and because of the length of time it takes to get the clearance.

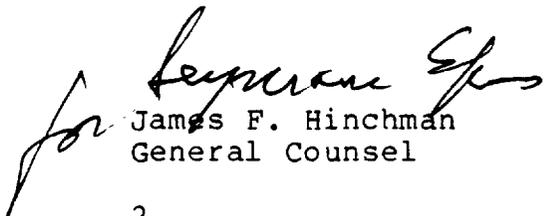
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We find no legal basis on which to object to the security clearance requirement. The solicitations state that orders placed under the contemplated contracts will be classified up to and including "CONFIDENTIAL-RESTRICTED DATA, FORMERLY RESTRICTED DATA, and NATIONAL SECURITY INFORMATION." The solicitations also state that the information contained in publications so classified affects the national defense, and notify the contractor that the transmission of such material or the revelation of its contents in any manner to an unauthorized person is prohibited and punishable by law. The solicitations indicate that the security clearance is required of the successful bidder prior to award because all deliveries and/or pickups of classified materials must be handled only by employees of the contractor who have security clearance in accordance with DOE security regulations.

It thus is apparent from the solicitations that a security clearance is required to meet the agency's minimum needs. Neither in its protest nor in its comments on the agency report does Link show that the requirement is not needed to perform the contract. Instead, Link essentially complains that the requirement unduly restricts competition because clearance action will not be initiated by DOE until a contractor has received notice of contract award, and that, anyway, the process takes much too long for it to be practicable for a bidder that is not already cleared to compete. However, 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. Microwave Radio Corp., B-227962, Sept. 21, 1987, 87-2 CPD ¶ 288; Joerns Healthcare Inc., B-227697, Sept. 18, 1987, 87-2 CPD ¶ 276. This portion of the protest is denied.

Link also contends that a provision in the proposed contracts which would allow DOE to have control over the approval of vouchers would cause delay in payment, establish the conditions for fraud, and abridge the contractor's right of appeal. Since Link admits it cannot compete for the contracts because of the security clearance problem, however, the firm is not an interested party under our Bid Protest Regulations to raise this issue. 4 C.F.R. §§ 21.0(a) and 21.1(a) (1987).

The protest is denied in part and dismissed in part.


James F. Hinchman
General Counsel