



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: DataVault Corporation
File: B-249054.2
Date: August 27, 1992

Janice M. Bellucci, Esq., for the protester.
Donald M. Suica, Esq., Harold G. Moshar, Esq., and Greg M. Weinman, Esq., Internal Revenue Service, for the agency.
Behn Miller, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where protester filed a protest with General Accounting Office (GAO) challenging solicitation's security vault specification as unduly restrictive, and agency delayed procurement to take corrective action, second protest to GAO challenging further alleged improprieties in the same specification is dismissed since this impropriety was apparent at the time of the initial protest to GAO; although the second protest was filed prior to the revised time set for receipt of initial proposals, consideration of such piecemeal submissions is inconsistent with GAO's mandate under the Competition in Contracting Act of 1984 to resolve protests quickly with only minimal disruption to the procurement process.

DECISION

DataVault Corporation protests as unduly restrictive the security vault back-up power source specification in request for proposals (RFP) No. IRS-91-059, issued by the Internal Revenue Service (IRS) for the weekly pick up, delivery, and storage of IRS files contained on magnetic tapes and cartridges. The solicitation requires the successful contractor to store these files in an electronically-locked security vault and provides that the vault must contain a back-up power source capable of providing 7 days of continuous emergency power in the event of a power outage. DataVault contends that the requirement for 7 days of back-up power exceeds the government's minimum needs.

We dismiss the protest.

The RFP, issued on May 14, 1992, contemplated the award of a firm, fixed-price, definite quantity contract for a base

1-year period and 3 option years. The scheduled closing date for receipt of initial proposals was June 15.

On June 15, approximately 1 hour before the 3:00 p.m. proposal submission deadline, DataVault filed a protest with this Office, challenging the security vault wall specifications as unduly restrictive. In response to this protest, by amendment dated July 7, the IRS substantially modified these requirements and extended the solicitation closing date to July 17; DataVault subsequently withdrew its protest on July 9.

On July 16, 1 day before the revised initial proposal due date, DataVault filed a protest with the contracting officer challenging the solicitation specification which required the security vault to contain back-up power generators capable of providing a 7-day emergency power source. DataVault contended that the agency's requirement for generators was unduly restrictive since other power sources--such as batteries--could equally perform this need; DataVault also argued that requiring 7 days of back-up power was excessive. In response to this agency-level protest, by means of an amendment dated July 28, the IRS eliminated the requirement that the vault's back-up power be provided by generators; however, the IRS continued to require a 7-day back-up power source. The IRS also extended the deadline for receipt of initial proposals to 3:00 p.m. on August 7.¹ On that date, at 1:08 p.m., DataVault filed this protest with our Office.

The protest system established by the Competition in Contracting Act of 1984 (CICA) and implemented by our Bid Protest Regulations is designed to provide for the expeditious resolution of protests with only minimal disruption to the procurement process. See 31 U.S.C. § 3554 (1988). That system cannot tolerate piecemeal protest filings that further disrupt the process. See Military Base Mgmt., Inc., B-224128, Nov. 26, 1986, 86-2 CPD ¶ 616. Thus, we will not allow a prospective offeror to protest a solicitation term, causing the agency to incur delays by taking corrective action, and then protest other solicitation terms shortly before the scheduled closing date, forcing the agency again to risk delays by considering corrective action and postponing the closing date. See Tucson Mobilephone, Inc., B-247055, Jan. 7, 1992, 92-1 CPD ¶ 34; Marine Indus., Ltd., B-225722.3, July 10, 1987, 87-2 CPD ¶ 30.

¹Along with the amendment, the contracting officer also issued a formal response to DataVault's agency-level protest which was provided to each offeror.

This solicitation has always required that the security vault contain a 7-day back-up power source. Although this requirement was apparent when DataVault filed its initial protest with this Office on June 15, DataVault has offered no explanation,² nor do we see one, as to why this issue could not have been raised at that time; accordingly, because this new protest ground has been raised in a piecemeal manner, we will not consider it. Source AV Inc., B-244755.2; B-244755.3, Sept. 10, 1991, 91-2 CPD § 237.

The protest is dismissed.

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Christine S. Melody
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²In response to the agency's motion for dismissal, DataVault requested that the protest be decided on the existing record.