



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: TCA Reservations, Inc.

File: B-222651.2

Date: September 12, 1986

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### DIGEST

Protest that proposal bond requirement unduly restricts competition is dismissed where performance bond was required because government funds are to be used by the contractor in the performance of the contract and regulations permit the use of proposal bond where performance bond is necessary.

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### DECISION

TCA Reservations, Inc., protests the bonding requirements of request for proposals (RFP) No. RFP-WAS0-86-13, issued by the National Park Service for a nationwide computerized reservation system. We dismiss the protest.

The RFP, issued May 28, 1986, requires each offeror to submit a proposal bond of \$100,000. It also requires the successful offeror to provide a performance bond of \$500,000. The National Park Service required the bonds because the contractor will be the custodian of up to \$500,000 of government funds in the form of user fees collected for services provided under the contract.

TCA previously protested that this solicitation did not allow sufficient time for a small business firm to secure a proposal bond. The Park Service has issued three amendments, each of which extended the closing date, so that finally there were 85 days from the issuance of the solicitation until proposals were due. TCA withdrew its protest on August 7, after the final closing date extension.

TCA now contends that the requirement for a proposal bond is prejudicial to small businesses and an abuse of the contracting officer's authority. TCA also continues to argue that there is not sufficient time for small business firms to secure proposal bonds.

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The need for the contractor to have custody of substantial government funds is justification for the bonding requirement. The regulations authorize the use of performance bonds when government property or funds are to be used by the contractor. Federal Acquisition Regulation (FAR), 48 C.F.R. § 28.103-2(a)(1) (1985). Further, the regulations expressly authorize the use of bid or proposal bonds where, as here, performance bonds are found necessary. FAR, 48 C.F.R. § 28.101-1(a).

We will not question a contracting officer's determination that bonding requirements are needed in a nonconstruction procurement, such as this, if the requirements are reasonable and imposed in good faith. Harris System International, Inc., B-219763, Oct. 18, 1985, 85-2 CPD ¶ 423. Other than objecting generally to the bonding requirement as discriminatory against small businesses, TCA has not shown that it was unreasonable or imposed in bad faith. The need for the contractor to have custody of government funds here justifies the use of a proposal bond as well as the performance bond, since it is the proposal bond that will protect the government against the offeror's failure to furnish a performance bond. See Executive-Suite Services, Inc., B-212416, May 29, 1984, 84-1 CPD ¶ 577. Consequently, we have no basis to question the contracting officer's determination that proposal and performance bonds are necessary.

Further, we do not think the agency provided insufficient time for offerors to prepare proposals and secure the required bonds. After three extensions of the closing date, offerors had a total of 85 days for preparation of proposals. TCA contends, however, that because the extensions were issued in a piecemeal fashion in three amendments, it did not have a sufficient block of time to determine that a proposal bond of the required amount was not available from the Small Business Administration (SBA) and to secure a bond from another source.

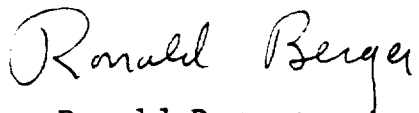
A contracting agency is generally required to allow a minimum of 30 days for preparation of proposals. FAR, 48 C.F.R. § 5.203(b) (1985). There is no separate requirement that the agency allow 30 days from the date of a solicitation amendment for proposal submission as long as the total time allowed under this solicitation is 30 days. Since the 85-day proposal preparation period allowed here exceeded the minimum period required, we have no basis to question the agency's actions. Owl Resources Co., B-221296, Mar. 21, 1986, 86-1 CPD ¶ 282.

Moreover, TCA apparently waited until after the final amendment was issued on August 6 before it determined that

the SBA would not provide the required bond. By that time, 70 days had passed since the solicitation had been issued. TCA offers no explanation as to why it could not determine before that date that the SBA would not provide a bond. Under the circumstances, there is no reason to again extend the closing date.

We have reach this decision on the basis of the protester's submission, without obtaining an agency report, since the protest on its face is legally without merit. Marbex, Inc., B-221995, Feb. 28, 1986, 86-1 CPD ¶ 212.

The protest is dismissed.

A handwritten signature in cursive script that reads "Ronald Berger".

Ronald Berger  
Deputy Associate  
General Counsel