



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Phoenix Printing Corp.
File: B-229606.2
Date: March 30, 1988

DIGEST

1. A prospective contractor who fails to obtain a security clearance mandated by a solicitation is properly found to be nonresponsible.
2. The fact that a prospective contractor has insufficient time to obtain a security clearance before the award of the contract does not constitute grounds for disturbing the agency's finding of nonresponsibility.

DECISION

Phoenix Printing Corp. protests the United States Government Printing Office's (GPO) determination that it was nonresponsible under a solicitation issued by the GPO for Program No. 1273-S. Phoenix was found nonresponsible because it did not have a current Department of Energy (DOE) security clearance by the time of award. We dismiss the protest.

The solicitation was issued for a 2-year requirements contract to produce books and pamphlets as requisitioned by the DOE Knolls Atomic Power Laboratory. On February 28, 1988, Phoenix was informed by GPO that it was the low bidder. On February 29, Phoenix was informed that it had been found nonresponsible because it did not have a current DOE security clearance.

Phoenix contends that the contract should be awarded to it because it was told that clearance was not required at the time bids were due and because the security clearance could not have been received in time even if it had been informed that clearance was required for award.

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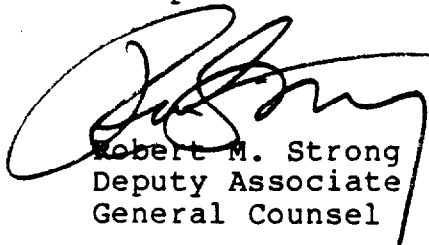
Obtaining a required security is a matter of responsibility because it relates to a firm's ability to perform. International Business Investments, Inc.; Career Consultants, Inc., 60 Comp. Gen. 275 (1981), 81-1 CPD ¶ 125. The solicitation set out the mandate for DOE security clearance as follows:

"Security clearance, as specified by this solicitation, will be required of the successful bidder prior to award. The government is not obligated to delay award pending security clearance of any bidder."

It was thus apparent from the solicitation that a security clearance was required to meet the agency's minimum needs. Because the language of the solicitation explicitly requires one, Phoenix cannot now claim not to have been apprised of the need for a security clearance. GPO's alleged advice that the security clearance would not be required at the time bids were submitted is not inconsistent with the requirement that bidders have the clearance at the time of award.

We also find no merit to Phoenix's assertion that it should be awarded the contract because it could not have obtained clearance in time even if it knew that a clearance was required for award. Such a situation does not constitute grounds for disturbing the agency's finding of nonresponsibility because the clearance is relevant to a contractor's ability to perform in an efficient and uninterrupted manner. See Fry Communications Inc., B-207605, Feb. 1, 1983, 83-1 CPD 109. Moreover, the agency could not award it a contract without the clearance in the face of the clear language of the solicitation to the contrary, because such an award would be unreasonable and contrary to the fundamental principle that an agency may not solicit bids on one basis and then make an award on another. ATD-American Co., B-227324, July 28, 1987, 87-2 CPD ¶ 103.

The protest is dismissed


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