



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Masscomp  
File: B-232012  
Date: August 19, 1988

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### DIGEST

1. A protest based upon an alleged impropriety in a solicitation that is apparent before the closing date for receipt of proposals is untimely when filed after that closing date.
2. Whether a prospective contractor can perform the contract with its proposed personnel relates to the firm's responsibility, and the General Accounting Office will not review an affirmative responsibility determination absent a showing of possible agency fraud or bad faith or an alleged agency failure to apply definitive responsibility criteria properly.

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### DECISION

Masscomp protests the award of a contract to Federal Technology Corporation under request for proposals (RFP) No. DAAD05-88-R-0044A, issued by the Department of the Army for maintenance of computer equipment. Masscomp takes exception to a provision of the solicitation that would allow the Army to add or delete equipment for maintenance service. Masscomp also argues that the awardee's personnel do not meet the technical experience requirements of the solicitation.

We dismiss the protest.

The RFP was issued on April 26, 1988. The closing date for receipt of proposals was May 29; award was made to Federal Technology on July 5. The solicitation provided that the Army, at its option, could add additional computer equipment of the same models as listed for service, or discontinue service on any item upon 30 days written notice to the contractor; a method of payment for such additions or deletions was also delineated. The RFP further specified that the contractor have available two levels of technical


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support specialists, one with additional training and/or experience to assist in particularly difficult problems, and another with in-depth specialized training and/or experience to assist on unusually complex problems.

Masscomp first argues that the solicitation provision allowing additional computer systems to be added to the contract without soliciting bids for such work is not in accordance with applicable procurement regulations. Masscomp's objection to this provision of the solicitation is untimely under our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (1988), which require protests based upon alleged improprieties in an RFP that are apparent prior to the closing date for receipt of proposals to be filed before that date. The purpose of that requirement is to enable the contracting agency or our Office to decide an issue while it is most practicable to take effective action where the circumstances warrant. Accordingly, Masscomp's allegations concerning this solicitation provision should have been raised prior to May 29, the closing date for receipt of proposals.

Masscomp further argues that the awardee does not have the personnel with the additional training or in-depth specialized training on Masscomp computer equipment required by the solicitation. Whether Federal Technology can perform the contract with its proposed personnel relates to the firm's responsibility as a prospective contractor. The Army has determined that Federal Technology is a responsible concern, and our Office will not review such an affirmative responsibility determination absent a showing of possible agency fraud or bad faith or an alleged failure to apply properly definitive responsibility criteria. 4 C.F.R. § 21.3(m)(5); Ship Analytics, Inc., B-225798, June 23, 1987, 87-1 CPD ¶ 621. These circumstances are not present here.

The protest is dismissed.

  
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General Counsel