



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Hollander Associates
File: B-237164
Date: February 1, 1990

G. L. Hollander, President & Technical Director, Hollander Associates, for the protester.
Herman A. Peguese, Assistant Secretary (Acquisition), Department of the Air Force, for the agency.
Richard Burkard, Esq., Andrew Pogany, Esq., and Michael Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Solicitation requirement for security clearance at time of contract award does not unduly restrict competition where contract performance will involve classified material, and successful completion of the contract would be risked if the successful contractor's personnel were not required to have clearance at that time.

DECISION

Hollander Associates protest as unduly restrictive a requirement for security clearance at the time of award under request for proposals (RFP) No. F05603-89-R-0018, issued by the Department of the Air Force for independent data verification and validation of development activities being performed by a contractor for the Joint Space Intelligence Center. Hollander also argues that the agency should have made pre-award arrangements for offerors to obtain the required security clearance.

We deny the protest.

In April 1989, a draft statement of work was issued to prospective offerors. Realizing that the contract would call for a security clearance for several contractor

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employees, a representative of the protester contacted the agency requesting that it receive pre-contract clearance known as billets.^{1/} The contracting officer had advised Hollander that it could submit a request for the billets which the government would evaluate. On June 16, Hollander submitted such a request. Prior to the issuance of the solicitation, the agency conducted a formal meeting to determine whether pre-contract billets were appropriate or allowable under security regulations for this procurement. The agency determined that pre-award billets were not necessary and denied Hollander's earlier request for them.

The RFP was issued on August 4, 1989, without providing for pre-contract billets. Section 4.2 of the RFP required that the contractor shall have at least five Top Secret and SCI cleared personnel assigned to the project 7 days after contract award. In addition, the solicitation required that at contract award the contractor provide, among other things, an SCI billet number for each person to be cleared for SCI. By amendment, the date for receipt of proposals was set for September 29, 1989. Although Hollander did not submit a proposal, the record indicates that a considerable number of offers were received. Hollander submitted its protest to our Office on September 28.

Hollander argues that the solicitation's provision that required the availability of five personnel with SCI billets on the day of award unduly restricted competition. It argues that, in effect, a firm must already possess the security clearance before being eligible to compete. It alleges that only large firms with previous contracts would be in a position to meet this requirement.

We find no basis on which to object to the security clearance or billet requirement. In an amendment to the solicitation, the agency advised offerors that it was the intent of the billet requirement to have SCI cleared personnel at contract award. It explained that the success of the contract relied heavily upon the timely analysis of development activities, which may be classified up to the Top Secret SCI level. It advised that the possible delays in having to wait for up to 1 year for contractor personnel to be cleared was unacceptable and imposed undue risk to the successful completion of the program.

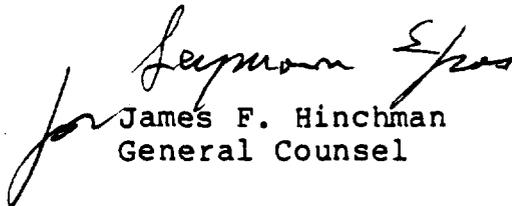
^{1/} A billet is the mechanism used in the Department of Defense to record the need-to-know approval for Special Compartmented Information (SCI) access. Defense Intelligence Agency (DIA) Manual, vol. I, chapter 3.

Generally, 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. G.S. Link and Assocs., B-229604; B-229606, Jan. 25, 1988, 88-1 CPD ¶ 70. Here, it is apparent from the record that contractor security clearance at contract award is required to meet the agency's minimum needs. The protester, moreover, does not dispute the agency's need for pre-award billets at contract award, arguing instead that they should be provided well in advance of award.

Concerning the issuance of pre-contract billets, both parties rely on a DIA manual which states that "special purpose billets/accesses may be established for preliminary design discussion/proposals or for pre-contract negotiations." DIA Manual 50-5, vol I., chapter 3, p. 19. The agency states that since there is no requirement for offerors to review or discuss SCI material prior to submission of proposals and award of the contract, pre-contract billets are not authorized under the regulation. Hollander argues that because the language of the manual is permissive, it does not preclude the issuance of billets under these circumstances.

Whether issuance of a pre-contract clearance is necessary and consistent with national security requirements is a matter for the agency to determine. See generally Lucas Aul, Inc., B-234842, June 16, 1989, 89-1 CPD ¶ 569. In any event, we find the agency's position that there is no need for pre-contract billets in this case to be reasonable.

Accordingly, the protest is denied.


James F. Hinchman
General Counsel