



Comptroller General
of the United States

61376

Washington, D.C. 20548

Decision

Matter of: Austin Telecommunications Electrical, Inc.
File: B-256251
Date: May 31, 1994

Philip J. Murphy for the protester.
Irma J. Wilson, for Systems Integration Group, Inc., and
Ray Lunceford, for McBride and Associates, Inc., interested
parties.
Octavia R. Johnson, Esq., Federal Bureau of Prisons,
Department of Justice, for the agency.
Sylvia Schatz, Esq., and David A. Ashen, Esq., Office of the
General Counsel, participated in the preparation of the
decision.

DIGEST

Protest alleging that pre-award operational capability test requirements for computer hardware and software were unduly restrictive of competition is denied where record establishes that testing requirements were reasonably limited to those necessary to assure compliance with specifications and interoperability with existing equipment at sites throughout the United States and Puerto Rico.

DECISION

Austin Telecommunications Electrical Inc. protests the terms of request for proposals (RFP) No. JADP-017, issued by the Federal Bureau of Prisons (BOP), U.S. Department of Justice (DOJ), under section 8(a) of the Small Business Act, 15 U.S.C. § 637(a) (1988 and Supp. IV 1992), for the supply and installation of computer hardware, software, and peripheral equipment for the establishment of local area networks (LAN). Austin argues that the RFP's testing requirements are unduly restrictive of competition.

We deny the protest.

The RFP required competitive range offerors to demonstrate in various operational capability tests that the proposed hardware and software were capable of performing as represented in the proposal and were interoperable with existing BOP automatic data processing equipment. The solicitation specifically required offerors to furnish for evaluation by the government samples of all proposed hardware and software (not previously evaluated by the

government) and to configure the hardware to emulate a remote BOP facility equipped with an offeror-supplied LAN system interconnected with an existing central office network. The RFP also required offerors to furnish documentation demonstrating that the proposed hardware and software conformed to the applicable specifications and standards contained in the Federal Information Processing Standards Publication and had successfully completed Government Open Systems Interconnection Profile compliance testing in accordance with National Institute of Standards and Technology standards. In addition, offerors were required to demonstrate that the proposed equipment and software complied with applicable BOP and DOJ standards and guidelines.

Austin contends that the testing requirements are unduly restrictive of competition, because the costs incurred to purchase, lease, or borrow the equipment required to perform the tests are excessive and prevent many small disadvantaged businesses from competing under the solicitation. Austin argues that the testing requirements should be modified or deleted from the solicitation.

A contracting agency's responsibility for determining its actual needs includes determining the type and amount of testing necessary to ensure both product compliance with the specifications and that a particular product will meet the government's stated needs. See Hallmark Packaging Prods., Inc., B-232218, Oct. 25, 1988, 88-2 CPD ¶ 390; Hewlett-Packard Co., B-245408, Jan. 6, 1992, 92-1 CPD ¶ 27. We will not object to such a determination where it is reasonable. Snowbird Indus., Inc., B-226980, June 25, 1987, 87-1 CPD ¶ 630.

We believe the testing requirements here were reasonable. In this regard, we note that the solicitation requested offerors to furnish a wide variety of hardware and software--including workstations, file servers, monitors, uninterruptable power supplies, mass memory storage devices, data backup units, printers, modems, document scanners, peripheral devices and software packages--needed to support institution administration, health and inmate trust fund/commissary services, communications links to several mainframe systems, and the hardware and software necessary to implement a distributed database system. The BOP reports that given the complexity and extent of the equipment being procured, pre-award testing is necessary to ensure that the hardware and software proposed are both capable of performing as represented in the proposals and interoperable with the existing equipment at the numerous BOP offices throughout the United States and Puerto Rico. In addition, the agency notes that in order to reduce the costs offerors would otherwise incur in meeting the testing requirements,

the solicitation limited the testing requirements to firms whose offers were in the competitive range and provided for waiver of the testing requirements for items the agency had already evaluated. Further, offerors were allowed to use leased or borrowed, rather than owned, equipment for the required testing.

In our view, the record clearly supports the agency's determination that the testing requirements were reasonably limited to those necessary to assure the required interoperability and compliance with the specifications. The fact that some small disadvantaged businesses, such as Austin, nevertheless may have had difficulty competing due to the cost of leasing, borrowing, or purchasing the testing equipment does not establish that the testing requirements were an unreasonable means of assuring the required interoperability and compliance with the specifications. See Silco Eng'g & Mfg. Co., B-250012.6, May 7, 1993, 93-1 CPD ¶ 372 (testing requirement was reasonable even though it restricted competition where testing was necessary to ensure the procurement of satisfactory end products). In any case, the record shows that 13 small disadvantaged businesses were in fact able to compete and submit proposals. In these circumstances, we see no basis upon which to conclude that the agency's testing requirements were unduly restrictive of competition.

The protest is denied.

/s/ Ronald Berger
for Robert P. Murphy
Acting General Counsel