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# Decision

**Matter of:** Spatial Front, Inc.

**File:** B-420377

**Date:** March 7, 2022

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## DIGEST

Protest challenging solicitation's facility clearance requirement is denied where the record supports the agency's assertion that the requirement is reasonably necessary to meet the agency's needs.

## DECISION

Spatial Front, Inc., of McLean, Virginia, challenges the terms of request for proposals (RFP) No. 1331L521R13OS0006, issued by the Department of Commerce (DOC) to obtain enterprise-wide information technology (IT) services.<sup>1</sup> The solicitation, issued as a total small business set-aside, contemplates the award of multiple indefinite-delivery indefinite-quantity (IDIQ) contracts, and requires that each offeror hold a top secret facility clearance (TS-FCL) to be eligible for award. Spatial asserts that the solicitation's

<sup>1</sup> The procurement, referred to as the Commerce Acquisition for Transformational Technology Services (CATTS), will provide a wide range of IT services for DOC bureaus and offices, and consolidates requirements previously performed under other contracts, including a contract performed by the protester. Contracting Officer's Statement and Memorandum of Law (COS/MOL) at 1, 6. The DOC organizations supported by this procurement include the Bureau of Industry and Security; Economic Development Administration; International Trade Administration; Minority Business Development Agency; National Telecommunications and Information Administration; and Office of the Secretary. *Id.* at 2 n.3.

TS-FCL requirements are “unduly restrictive” and “have an unreasonable impact on small businesses.” Protest at 3; Comments at 1.

We deny the protest.

## BACKGROUND

On December 10, 2019, DOC’s Office of the Chief Information Officer (OCIO) issued a technical direction statement (TDS) that discussed, in candid terms, the then-current IT environment at DOC. Among other things, the TDS noted that DOC was operating in a “highly fragmented IT environment that fails to leverage the latest technologies, standardization, best practices and especially economies of scale,” and added that IT solutions were “built in silos, [and] often poorly implemented.”<sup>2</sup> Agency Report (AR), Tab 2, TDS at 2. The TDS added that “[a]s the entity ultimately responsible for the oversight and functioning of IT environments across the Department, the . . . OCIO has fallen short of providing the leadership necessary to effectuate meaningful and rapid transformation,” noting that “decentralization brought on by either historic precedent, inability to innovate, or garden variety fiefdom building and maintenance preclude rapid progress and enable dangerous maintenance of the status quo.” *Id.* at 19-20. The TDS summarized the results of DOC’s “bureau-centric” IT environment, stating:

In Fiscal Year 2020 [DOC’s IT] expenses are estimated at \$3.8 Billion and consume about 31% of an estimated \$12.2 Billion departmental budget. This percentage is wildly out of line with private sector averages (≤10%).

*Id.* at 2.

The TDS concluded by identifying strategies to address the situation, including the migration of legacy platforms to a cloud-based environment with “outsourced activities such as Software-as-a-Service (SAAS) or Infrastructure as a Service (IAAS) . . . to provide functionality DOC-Wide.” *Id.* at 4, 15, 19.

Thereafter, the agency conducted market research and created an acquisition plan for the procurement at issue here, see AR, Tab 5, Acquisition Plan; Tab 3, Market Research Report, concluding that a major goal should be to eliminate duplicate services by implementing more centralized IT solutions across both bureau boundaries and security classification boundaries. *Id.*; see also AR, Tab 21 Declaration of Chief Information Officer (CIO) for the Office of the Secretary at 1. Among other things, the agency concluded that combining support for both classified and unclassified IT systems “will improve overall process, ensure

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<sup>2</sup> The agency explains that DOC has been operating under a “bureau-centric” IT model where services have been purchased separately by DOC’s various bureaus. COS/MOL at 5.

consistency across systems, and provide significant cost savings.” AR, Tab 21, Declaration of CIO for the Office of the Secretary at 2; COS/MOL at 25. The agency concluded that the total expected value of this acquisition was \$1.43 billion and that “significant cost savings will be realized through the consolidation effort.”<sup>3</sup> AR, Tab 5, Acquisition Plan at 7, 12.

In conducting its initial market research, the agency posted a request for information (RFI) in December 2020 and conducted industry days on August 10 and 12, 2021. Based on the RFI responses and attendance at the industry days, the agency concluded there were 17 small businesses capable of performing one or more of the CATTs task areas;<sup>4</sup> at least 5 small businesses capable in each task area; and four small businesses capable of performing in all task areas (three of which hold TS-FCLs.) See AR, Tab 3, Market Research Report at 6-7.

Subsequently, the agency expanded its market research to include consideration of similar procurements that have been conducted by other federal agencies--specifically including a procurement conducted by the Defense Intelligence Agency (DIA), referred to as the “Solutions for the Information Technology Enterprise III” or “SITE III” procurement. AR, Tab 14, Updated Market Research Report at 7; see AR, Tab 12, SITE III RFP. The agency’s expanded market research determined that the SITE III contract was similar to CATTs in that it was a multiple-award IDIQ procurement that required contractors to provide enterprise-wide IT services; covered a 10-year performance period; utilized the same North American Industry Classification System (NAICS) code as that identified in CATTs;<sup>5</sup> and required vendors to possess TS-FCLs at the time of contract award.

Finally, DOC’s research found that under the SITE III procurement, DIA “made 144 awards, 107 of which were [to] small businesses.” AR Tab 14, Updated Market Research Report at 7. Accordingly, DOC concluded that a large number of small businesses are capable of meeting the CATTs requirements, including the requirement to hold a TS-FCL at the time of contract award. *Id.* at 7-8.

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<sup>3</sup> More specifically, the agency estimates that cost savings will exceed \$90 million. AR, Tab 6, Consolidation Analysis at 2-3. The agency’s calculations reflect, in part, application of the Office of Management and Budget’s (OMB) government-wide category management factor; that is, OMB’s estimate of savings generally achieved through consolidation of government IT services. *Id.*

<sup>4</sup> The solicitation contemplates six areas of performance: CIO support; digital document and records management; managed service outsourcing and consulting; IT operations and maintenance; IT services management; and cybersecurity. AR, Tab 18, RFP at 12.

<sup>5</sup> The NAICS code referenced in both the CATTs and SITE III solicitation is 541519, “Other Computer Related Services.” See AR, Tab 18, RFP at 6; Tab 12, SITE III RFP at 184.

On November 12, 2021, the agency issued the RFP as a total small business set-aside, seeking proposals for the award of multiple IDIQ contracts,<sup>6</sup> and establishing a closing date of January 17, 2022. AR, Tab 18, RFP at 9, 41, 74, 79. As noted above, the solicitation identified six areas of performance under which task orders will be issued,<sup>7</sup> *id.* at 9; stated that, to be eligible for award, a prime offeror must hold a TS-FCL,<sup>8</sup> *id.* at 44, 56, 63-66; and provided for a two-phase procurement.<sup>9</sup> *Id.* at 63-74.

Following release of the solicitation, Spatial engaged in various communications with the agency regarding the solicitation's TS-FCL requirement. On November 26, 2021, Spatial filed this protest.

## DISCUSSION

Spatial asserts that the terms of the solicitation “unreasonably restrict[] competition” and are contrary to the requirements of the Competition in Contracting Act of 1984, maintaining that the requirement to hold a TS-FCL at the time of contract award is “unnecessary” because “only a limited number of task orders are likely to require Top Secret FCL status.” Protest at 1. Spatial asserts that the security requirement should be “initiated at the task order level.” Comments at 1, 3.

The agency responds that Spatial's assertions regarding the “limited number” of task orders that will require TS-FCL status is inaccurate and reflects Spatial's limited experience in performing a tiny fraction of the work contemplated under this

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<sup>6</sup> The solicitation states that the agency anticipates awarding 15 to 20 IDIQ contracts. AR, Tab 18, RFP at 77.

<sup>7</sup> The solicitation contemplates a 1-year base period and four option periods, providing a potential 10-year ordering period. *Id.* at 20.

<sup>8</sup> The solicitation encouraged submission of proposals by joint ventures and/or prime/subcontractor arrangements, noting that the TS-FCL requirement will apply only to a subcontractor or joint venture partner under certain circumstances, dependent upon the proposed division of performance responsibilities. *Id.* at 66.

<sup>9</sup> In phase one, the agency will consider the breadth and depth of an offeror's experience as well as whether it holds a current TS-FCL. Following the phase one evaluation, offerors will receive advisory notices as to whether the agency recommends proceeding to phase two. The agency will not recommend that an offeror who does not hold an active TS-FCL proceed to phase two. Nonetheless, the agency's advice will be a recommendation only, and offerors who are advised not to proceed may elect to continue their participation in the procurement. *Id.* at 63-74.

procurement.<sup>10</sup> Specifically, the agency states that classified work is anticipated under each of the six performance areas, and provides examples of work that may be required under each area.<sup>11</sup> AR, Tab 21, Declaration of CIO for Office of Secretary at 4-6.

For example the agency states that, previously, when DOC was involved in implementing steel and aluminum tariffs, there was a requirement to track and investigate tariff claims and requests for waivers. *Id.* at 3. In order to investigate such claims and requests, DOC had to access classified information to determine whether a company was an agent of [redacted] foreign government. Because of the sensitive, classified nature of such information, DOC was required to create separate tracking systems for classified and unclassified information. The agency notes that “The purpose of CATTS . . . is to eliminate these duplicative, non-connected systems” and enable the agency “to analyze classified and unclassified data in an efficient system that utilizes cross-domain technologies.”<sup>12</sup> *Id.*

By way of another example, the agency notes that, under the current IT environment, DOC operates five separate service desks supporting the various bureaus. These will be consolidated under the CATTS procurement into a single central service desk for all of the supported bureaus. *Id.* at 2.

The agency further notes that facilities supported by the CATTS procurement include [redacted] sensitive compartmented information facilities (SCIFs), as well as multiple non-sensitive compartmented information (SCI) facilities, and that additional SCIFs “are under construction and will be operational before award of the CATTS vehicle.”<sup>13</sup> *Id.* at 4. Because the information maintained in these facilities includes information ranging from “the unclassified level up to and

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<sup>10</sup> In 2019, Spatial was awarded a contract to provide help desk support, desktop support, and training services for one DOC bureau, the International Trade Administration; that contract, with a total value of \$7.8 million, did not require a TS-FCL. AR, Tab 1, Spatial Contract at 1, 4-5, 19, 24; see COS/MOL at 22. As noted above, the contract at issue here has an estimated value of \$1.4 billion.

<sup>11</sup> The agency also notes that each DOC bureau supported by this procurement has “Continuity of Operations/Continuity of Government requirements” that fulfill and support essential functions extending across security classification boundaries. AR, Tab 21, Declaration of CIO for Office of Secretary at 4.

<sup>12</sup> The agency further notes that “all task orders under Task Area 6 [cybersecurity] will require a Top-Secret clearance due to mission needs relative to cyber security initiatives which cut across all bureaus within Commerce.” AR, Tab 3, Market Research Report at 6.

<sup>13</sup> The agency notes that, due to Spatial’s limited experience, it may be unaware of the SCIFs currently under construction. COS/MOL at 23.

including the TS/SCI level,” the agency maintains that each IDIQ awardee must have the capability to provide IT support involving information classified at the highest level. *Id.*

Finally, the agency points out that its expanded market research supports the conclusion that over 100 small businesses are capable of meeting the solicitation requirements, including the TS-FCL requirement.<sup>14</sup> In short, the agency maintains that awarding IDIQ contracts only to offerors capable of providing both classified and unclassified IT support will improve the quality of performance, ensure consistency across systems, and provide significant costs savings. COS/MOL at 25; AR, Tab 21, Declaration of CIO for Office of the Secretary at 2.

A contracting agency has the discretion to determine its needs and the best methods to accommodate them. *JLT Group, Inc.*, B-402603.2, June 30, 2010, 2010 CPD ¶ 181 at 2. Although a contracting agency must solicit offers in a manner designed to achieve full and open competition, and may include restrictive provisions only to the extent necessary to satisfy the agency’s minimum needs, an agency is not required to construct procurements in a manner that neutralizes the competitive advantages of some potential offerors. *Staveley Instruments, Inc.*, B-259548.3, May 24, 1995, 95-1 CPD ¶ 256 at 3-4. Further, where requirements relate to issues of national security, an agency has the discretion to define solicitation requirements to achieve not just reasonable results, but the highest possible reliability and/or effectiveness. *E.g. Nova Constructors, LLC*, B-410761, Jan. 21, 2015, 2015 CPD ¶ 51 at 4. Our office will examine the adequacy of the agency’s justification for allegedly restrictive provisions to ensure that such justifications are rational and can withstand logical scrutiny. *See, e.g., Nexagen Networks, Inc.*, B-411209.7, June 20, 2016, 2016 CPD ¶ 164 at 4. We have recognized that consolidation of contract requirements may be reasonably justified where consolidation creates significant cost savings or operational efficiencies. *See, e.g., U.S. Electrodynamics, Inc.*, B-403516, B-403516.2, Nov. 12, 2010, 2010 CPD ¶ 275 at 9.

Here, based on our review of the record discussed above, we reject Spatial’s assertions that DOC has failed to provide a reasonable justification for limiting IDIQ contracts to offerors holding TS-FCLs at the time of award and/or that the terms of the solicitation have “an unreasonable impact on small businesses.” *See* Protest at 3; Comments at 1. As discussed above, the record reflects DOC’s: well-documented recognition of problems flowing from its decentralized IT environment; creation of strategies for improving IT services, ensuring consistency across systems, and achieving cost savings; and performance of market research supporting its conclusion that a significant number of small businesses will be able to meet the solicitation requirements, including the TS-FCL requirement. More specifically, the record reasonably supports the

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<sup>14</sup> In this context, the agency notes that Spatial is not precluded from participating in the procurement due to the solicitation’s encouragement of proposal submissions by joint ventures and/or prime/subcontractor arrangements.

agency's determination that the requirements of this contract will necessitate the capability of a contractor to provide IT support for both classified and unclassified material and that a contractor's performance must be capable of spanning bureau and classification boundaries. Accordingly, we reject Spatial's assertion that the solicitation--which is structured as a total small business set-aside and encourages proposal submissions by joint ventures and prime/subcontractor arrangements--fails to comply with the statutory/regulatory requirements.

The protest is denied.

Edda Emmanuelli Perez  
General Counsel