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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Harris Enterprises, Inc.

File: B-311143

Date: March 27, 2008

George Sigler for the protester.

Mark S. Ledford, Esq., and Uri Ko, Esq., Social Security Administration, for the agency.

Peter D. Verchinski, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

In solicitation for warehouse support services, requirement that awardee be registered as ISO-9001:2000 compliant is unobjectionable where agency reasonably determined that contractor meeting strict quality assurance standards will best be able to meet agency's need for handling of security sensitive items, including personally identifiable information.

DECISION

Harris Enterprises, Inc. protests the terms of request for proposals (RFP) No. SSA-RFP-08-1028, issued by the Social Security Administration (SSA) for warehouse support services. Harris, the incumbent contractor, asserts that the solicitation is unduly restrictive of competition because it requires offerors to have current certification under International Standards Organization (ISO) 9001:2000.¹

We deny the protest.

SSA issued the RFP on January 11, 2008 as a competitive section 8(a) set-aside for management, labor, supplies, equipment, materials, and transportation necessary to perform warehouse support services in Maryland. The RFP included a requirement that the successful offeror be ISO 9001:2000 certified by the date specified for receipt

¹ ISO-9000 standards (including ISO 9001) are a series of internationally recognized quality assurance standards. See LBM Inc., B-286271, Dec. 1, 2000, 2000 CPD ¶ 194 at 2 n.2.

of offers, February 1. RFP at 7, 67. Prior to the February 1 closing time, Harris filed this protest, asserting that the ISO 9001 requirement is restrictive of competition and exceeds the agency's actual needs.

The determination of a contracting agency's needs and the best method of accommodating them are matters primarily within the agency's discretion. Systems Application & Techs., Inc., B-270672, Apr. 8, 1996, 96-1 CPD ¶ 182 at 3. However, where a protester challenges a specification as unduly restrictive of competition, we will review the record to determine whether the restrictions imposed are reasonably related to the agency's needs. Id.; LBM Inc., B-286271, Dec. 1, 2000, 2000 CPD ¶ 194 at 3. The ISO 9001 requirement here is unobjectionable.

The agency explains that the warehouses here handle materials containing security related information, including personally identifiable information (PII) such as names, addresses, and social security numbers. In this regard, the warehouses receive all of SSA's excess computers, which contain PII, and ships out SSA's new laptop computers, which are loaded with SSA's encryption software. The warehouses also store and ship other security sensitive items, such as the equipment used to create personnel credentials that allow SSA employees to enter secure buildings and to log on to secure computers. Finally, the warehouses store precious metals and handle hazardous materials that require adherence to a strict set of procedures. The agency explains that protecting these materials and maintaining a high standard for their handling has become one of SSA's primary concerns, and that the business process improvements offered by an ISO 9001 certified contractor would provide the "best possible assurance that the contractor is protecting the integrity of SSA's PII, PII-related equipment, precious metals, and hazardous materials." Legal Memorandum at 6.

We see no reason why the agency should not be permitted to adopt a requirement aimed at ensuring the highest level of quality assurance, particularly in light of the sensitive nature of the materials involved here. Since ISO 9001 is intended to ensure quality management systems--by requiring, among other things, that firms monitor processes to ensure that they are effective, keep adequate records, check for defects, and regularly review the quality system itself--we think the agency could reasonably conclude that a requirement for ISO 9001 certification will help ensure that the contractor will provide the highest level of quality control in providing the required warehousing services.² AR, Tab7.

² Harris asserts that, based on its experience as the incumbent contractor, employees do not generally handle all of the types of materials identified by the agency, and that the sensitive nature of the warehoused materials therefore cannot be a proper justification for requiring ISO 9001. Protester's Comments at 5. Its general assertion notwithstanding, however, Harris does not deny that certain PPI and other sensitive information is handled and, in fact, concedes that it has been involved in shipping

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Harris asserts that the need to protect PII and other security sensitive items, and the need for quality control in handling hazardous materials were already contained in Harris's previous contract, and that the agency's claim that ISO 9001 is necessary here therefore is unfounded. However, the fact that a requirement may not have been included in a prior solicitation or contract does not provide a basis for finding the requirement unduly restrictive when included in a subsequent solicitation for similar items. See USA Fabrics, Inc., B-295737, B-295737.2, Apr. 19, 2005, 2005 CPD ¶ 82 at 5. In this regard, each procurement action is a separate transaction and an action taken under one procurement is not relevant to the propriety of the action taken under another for the purposes of a bid protest. Komatsu Dresser Co., B-251944, May 5, 1993, 93-1 CPD ¶ 369 at 4.³

Harris asserts that the agency has required ISO 9001 certification as part of a bad faith effort to favor a particular 8(a) firm that allegedly received advanced notice of the requirement, and thus was able to timely obtain the certification. Government officials are presumed to act in good faith, and a protester's claim that contracting officials were motivated by bias or bad faith must be supported by convincing proof; we will not attribute unfair or prejudicial motives to procurement officials on the basis of inference or supposition. Shinwha Elecs., B-290603 et al., Sept. 3, 2002, 2002 CPD ¶ 154 at 5 n.6. Here, the protester offers no evidence supporting its claim; rather, it draws an inference based on its belief that the ISO 9001 certification is not necessary to perform the current work. This constitutes speculation and is insufficient to support a finding of bad faith.

The protest is denied.

Gary L. Kepplinger
General Counsel

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laptop computers in the past, and has handled other security sensitive items. Id. at 4-5. In any case, the protester has not shown why—even if sensitive materials were not involved—the agency would not be permitted to impose standards designed to ensure the highest-level quality assurance under the contract.

³ Harris challenges the agency's explanation that ISO 9001 also is justified because it will result in cost savings. We need not consider this argument since, as discussed, we find that the agency has otherwise justified the ISO 9001 certification requirement.