



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: The Excel Corporation

File: B-237678

Date: March 12, 1990

J.W. Holmes, for the protester.
Melvin N. Hatcher, Esq., Department of Energy, for the agency.
V. Bruce Goddard, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protester's offer was properly rejected because its offered personnel did not have Department of Energy "L" clearances which were clearly required by the solicitation's evaluation criteria.

DECISION

The Excel Corporation protests the rejection of its offer under request for proposals (RFP) No. 098732, issued by the Battelle Pacific Northwest Laboratories, for evaluation of operator training and qualifications, start-up testing procedures and results, both during and after restart of the Savannah River Plant reactors. Battelle issued the solicitation pursuant to its prime contract with the Department of Energy (DOE) for management and operation of the Pacific Northwest Laboratory, Richland, Washington.

We deny the protest in part and dismiss it in part.

Excel's proposal was rejected because it did not propose five personnel with DOE "L" security clearances. Excel contends that although the personnel it proposed did not have "L" clearances, they had senior reactor operator's licenses, which Excel asserts meets the minimum qualifications in the RFP statement of work. Excel contends that it was therefore improper for Battelle to reject its offer because its personnel lacked "L" clearances. Alternatively, Excel argues that the requirement that the offeror's personnel have "L" clearances is unreasonable.

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Excel's argument is based upon its interpretation of the RFP statement of work, which states:

"The contractor may be requested to provide five (5) personnel with the following minimum qualifications:

- . DOE clearance 'L'

- . certified NRC [Nuclear Regulatory Commission] licensed examiners for reactor operators (as certified by the Operator Licensing Branch of the NRC)

OR

- . other comparable qualification or experience such as U.S. NRC Senior Reactor Operator license or U.S. Navy Engineering Officer of the Watch (EOOW) or equivalent (nongovernmental certification or qualification may not be substituted for these personnel)." [Emphasis supplied in original.]

The RFP also contained qualification criteria reiterating that offerors' proposed personnel must possess DOE "L" clearances. The RFP specifically provided that qualification criteria are prerequisites which must be met or no further consideration will be given to the proposal. The RFP qualification criteria are:

- " . Provide certification that the five (5) personnel being proposed as licensed operator examiners have a minimum of a DOE 'L' clearance.

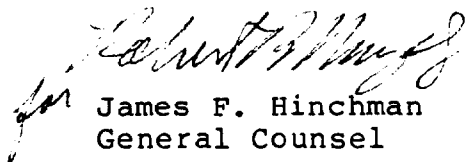
- " . Provide a commitment of availability for those named personnel to attend one two-week training session during October and/or November 1989."

Excel contends that the statement of work allowed an offeror to propose personnel who either had "L" clearances or who were certified NRC licensed examiners for reactor operators, or who had comparable governmental qualifications or experience.

We think Excel's reading of the solicitation is unreasonable. When read as a whole, the solicitation clearly requires proposed personnel to have "L" clearances and either one of two types of qualifications: (1) applied experience as reactor operator examiners; or (2) evidence of NRC senior reactor operator licenses. For an offeror to read the solicitation in any other manner requires that it ignore the stated qualification criteria that the five proposed personnel must have a minimum of a DOE "L" clearance. Since Excel admittedly proposed personnel without the requisite "L" clearance, its proposal was properly rejected.

We dismiss Excel's contention that the "L" clearance requirement was unreasonable, since this protest basis is also untimely under our Bid Protest Regulations. 4 C.F.R. § 21.2(a)(1). Although this requirement was clearly evident in the RFP, Excel did not protest this issue prior to closing date for receipt of proposals.

The protest is denied in part and dismissed in part.


James F. Hinchman
General Counsel