



Decision

Matter of: Inteliteams, Inc.

File: B-422653

Date: August 6, 2024

Jerry R. Mannes II, Inteliteams, Inc., for the protester.
James Jurich, Esq., Nicholas M. Bidwell, Esq., Laura L. Hoffman, Esq., and Kevin R. Hilferty, Esq., Department of Energy, for the agency.
Hannah G. Barnes, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest contending the agency should not have classified a solicitation fails to state a valid legal or factual basis for protest.

DECISION

Inteliteams, Inc., a service-disabled veteran-owned small business of Holland, Michigan, protests the terms of request for proposals (RFP) No. 89303023RET000009, issued by the Department of Energy (DOE) for intelligence and counterintelligence services. The protester primarily argues that the solicitation should not be classified, asserting that the classified nature of the solicitation makes it unduly restrictive of competition. We dismiss the protest.

On June 7, 2024, the protester emailed the DOE to request further information about a classified solicitation, which Inteliteams discovered when it saw the RFP's name on the National Reconnaissance Office (NRO) Acquisition Resource Center's (ARC) website.¹ Protest at 5. The RFP, issued as a small business set-aside, had a closing date of June 20, 2024. *Id.* The protester requested a "sanitized," unclassified copy of the RFP;

¹ Inteliteams explains that it discovered an already-closed solicitation on the NRO ARC website with the same name as the solicitation at issue here. Protest at 2. The protester asserts that the RFP being protested is an NRO ARC Joint Worldwide Intelligence Communication System (JWICS) solicitation, and that accessing JWICS requires a sensitive compartmented information facility (SCIF), as JWICS is a secure intranet system that hosts classified information. *Id.*

and on June 11, the agency denied the request. Email Exchange at 1. On June 12, Inteliteams filed this protest with our Office.

The protester, who acknowledges that it has not been able to access the solicitation, argues that “the [RFP] and its subsequent proposal submission(s) need not be classified.” Protest at 2. Inteliteams contends that it has provided the same counterintelligence services to other agencies, which issued unclassified solicitations; and DOE consequently has “no legitimate reason” for issuing a classified rather than an unclassified RFP. Resp. to Req. for Dismissal at 5. The protester also complains that it is unable to compete under this solicitation because it “does not possess” a SCIF, which it states it would need in order to access JWICS, the system where the RFP is located. *Id.* at 3. Inteliteams argues that the solicitation is unduly restrictive of competition because its classified nature “excludes otherwise qualified competitors,” alleging that “the vast majority” of businesses competing on classified contracts cannot access JWICS via a SCIF. *Id.* at 3, 6.

Prior to the due date for the agency report, the agency filed a request for dismissal, asserting that the protester’s challenge to the solicitation’s terms fails to state a valid legal or factual basis for protest. Req. for Dismissal at 4. DOE contends that it is in “the interests of national security” that the RFP at issue be classified so that the agency can include details of the counterintelligence program to explain the scope of work. *Id.* at 6. The agency argues that the protester’s claim that DOE does not require a classified solicitation “is submitted without any basis beyond its own opinion.” *Id.*

Our Bid Protest Regulations require protesters to present protest grounds that are factually and legally sufficient. 4 C.F.R. § 21.1(c)(4) and (f); see also *Xenith Grp., LLC*, B-420706, July 14, 2022, 2022 CPD ¶ 184 at 3. If a protester’s allegations are based on speculation, factual inaccuracies, or flawed legal assumptions, we will summarily dismiss a protest without requiring the agency to submit a report. *Id.*

We agree with the agency that Inteliteams has failed to state a valid legal or factual basis for protest. As noted above, Inteliteams has acknowledged that it has not read the RFP, as the solicitation is classified. Consequently, the protester does not know the actual terms of the solicitation and is speculating, without further factual support, that it could be made available as an unclassified RFP without endangering national security. Further, Inteliteams’s assertion that it cannot compete because it does not possess a SCIF is not a legally sufficient protest ground; a solicitation requirement is not objectionable, even if it is burdensome or impossible to meet, provided the requirement properly reflects the agency’s needs. See *Blue Origin Florida, LLC*, B-417839, Nov. 18, 2019, 2019 CPD ¶ 388 at 10. Here, Inteliteams essentially complains that a classified solicitation is unfair to the protester, as it does not possess a SCIF, and speculates that other small businesses are in a similar position. Protest at 3, 6. Ultimately, the

protester's assertions fail to state a valid legal or factual basis for protest. 4 C.F.R. § 21.1(c)(4) and (f).²

The protest is dismissed.

Edda Emmanuelli Perez
General Counsel

² Further, regarding the protester's argument that the RFP should be made available as an unclassified document, our Office will not review the agency's determination regarding its national security interests in order to grant a party access to classified information. See *The Boeing Co.; Bombardier, Inc.*, B-414706, B-414380.2, Aug. 25, 2017, 2017 CPD ¶ 274 at 20 (stating that an agency's decision whether to grant a firm security clearance for a particular acquisition is not a matter our Office will generally review); *AT&T Gov't Sols., Inc.*, B-406926 *et al.*, Oct. 2, 2012, 2013 CPD ¶ 88 at 9 n.9 (where our Office advised the parties in a conference call that we would not review the agency's determination that the protester's proposal contained classified information).