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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-187653

DATE: March 10, 1977

MATTER OF: George E. Jensen Contractor, Inc.

DIGEST:

Subcontractor listing requirement is satisfied by identification of installer but not supplier of standard commercial items, since "bid shopping" is not significant problem with respect to suppliers of items generally available to the public.

George E. Jensen Contractor, Inc. (Jensen) has protested the award of a contract to Lake McDonald, Inc. (Lake) by the General Services Administration (GSA), Public Buildings Service, under Project No. NGA 760001 for the construction of men's dormitories at the Federal Law Enforcement Training Center, Glynnco, Georgia. Jensen, the fourth low bidder, contends that the bids submitted by the first, second and third low bidders are nonresponsive for failure to comply with the subcontractor listing requirement specified in the invitation for bids (IFB). GSA determined that a prompt award was in the best interest of the Government and awarded contract to Lake, the low bidder, on December 16, 1976.

The IFB required each bidder to furnish with its bid the name and address of the subcontractor which would perform each specified categories of work. If the bidder intended to perform any category of work itself, it was to list its own name for that category. Where a category was to be performed in part by the bidder and in part by another firm, the bidder was to describe the portion of work to be performed by each. "Subcontractor" was defined in the solicitation as any " * * * firm with whom the bidder proposes to enter into a subcontract for manufacturing, fabricating, installing or otherwise performing work under this contract * * *." The solicitation stated that the failure to comply with the subcontractor listing requirement would render the bid nonresponsive and that the listing of a firm as a subcontractor which did not meet certain requirements "may be grounds for rejection of the bid."

Lake listed only itself under the category of hardware, indicating that it planned to perform all such work itself. Jensen contends that Lake cannot furnish a substantial portion of the hardware required except by subcontract because the hardware must be "specially manufactured" and Jensen does not have "in-house" manufacturing capability. GSA's position is that Lake's bid is acceptable because

Lake listed itself as installer of the hardware and was not required to list the supplier of the hardware because the hardware consists only of standard commercial items, rather than items to be manufactured to Government specifications.

The requirement for listing subcontractors, includes manufacturers and fabricators whose products are specially made to conform to the Government's specifications, but does not encompass suppliers of standard items or equipment. 49 Comp. Gen. 120 (1969). The distinction is based upon the recognition that no valid purpose exists for requiring the listing of suppliers of essentially standard items, since the subcontractor listing requirement was designed to eliminate "bid shopping" and the evils of bid shopping are insignificant in the context of items generally supplied to the public. See Frank Coluccio Construction Company, Inc., 55 Comp. Gen. 955 (1976), 76-1 CPD 215. Thus, the controlling issue in this case is whether the hardware items to be installed are essentially standard commercial items.

In support of its position that they are not, Jensen has submitted two letters from hardware suppliers which indicate that the hardware "will have to be ordered from the manufacturer's factory" and that such items "are not shelf items and have to be manufactured special." Jensen contends that "an off-the-shelf item is one you can walk into a store and purchase and take out with you." Jensen also believes that since one supplier requires 60-90 days lead time to furnish the hardware, the items must be regarded as specially manufactured rather than standard shelf items.

GSA, on the other hand, states that a portion of the hardware will be furnished by the Government and that the remainder consists of "standard commercial items readily available from most hardware suppliers." GSA has listed a number of lock manufacturers which it states are available to furnish the hardware. The agency's position is that the hardware consists only of standard commercial items manufactured to commercial specifications.

On this record, we cannot conclude that GSA has been shown to be incorrect. In essence, Jensen has shown only that two hardware suppliers do not stock the items call for in the IFB. We do not think that because an item may have to be "ordered" from a manufacturer rather than taken from the existing stock of a supplier such item is of necessity other than a standard item. For example,

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in Coluccio, supra, we viewed a certain category of pipe as commercially available even though requests for the pipe would be met either from stock or by special manufacturing runs.

Accordingly, we find that the bid of Lake was responsive to the subcontractor listing requirements and find no basis to object to the award to that firm.

The protest is denied.

Priskin
Acting Comptroller General
of the United States