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DECISION



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

FILE: B-191252

DATE: March 28, 1978

MATTER OF: Virginia-Maryland Associates

DIGEST:

1. Protest alleging that proposed awardee cannot comply with solicitation requirements is dismissed since Government's acceptance of responsive offer effectively binds offeror to perform in accordance with terms of solicitation, and whether offeror is able to do so is matter of responsibility, and agency's affirmative determination thereof will not be reviewed by GAO except in limited circumstances.
2. Whether awardee is complying with previous contracts is matter of contract administration, and not for GAO consideration.

Virginia-Maryland Associates, Inc. (VMA), has protested the proposed award of a contract for lamps to G.F.C. Manufacturing Company (GFC), under request for quotations (RFQ) No. 3FP-AA-T-B-H5620-1, issued by the General Services Administration (GSA). VMA also protests the continued performance by GFC under 2 previous contracts for the same lamps.

VMA alleges that its visual inspection of the lamps being delivered under two previous contracts reveals that they do not comply with the Government's specification (Mil. Spec. MIL-L-28582A). VMA also alleges that the delivery schedule is not being maintained. The protester argues that GFC is not a responsible contractor, as evidenced by these alleged performance deficiencies. VMA requests that we intervene in the previous contracts and require termination and resolicitation, and that we find GFC nonresponsive and nonresponsible and therefore not eligible for award under the current RFQ.

Regarding the current RFQ, offerors responded to the RFQ by quoting a unit price and total amount in columns

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opposite the Government's description of the desired item. By offering to supply the item described by Mil. Spec. MIL-L-28583 and stating no exception to the requirements, GFC was responsive and will be bound to perform in accordance with the specification requirements if awarded the contract. 52 Comp. Gen. 955 (1973).

Whether GFC has the ability to perform in accordance with these terms is a matter of responsibility. 53 Comp. Gen. 396 (1973). Any award of a contract to GFC will necessarily involve an affirmative determination of that firm's responsibility under Federal Procurement Regulations (FPR) 1-2.407 (1964 ed. amend. 139), and our Office does not review protests against affirmative determinations of responsibility unless either fraud on the part of procuring officials is alleged, or the solicitation contains definitive responsibility criteria which allegedly have not been applied. Central Metal Products, Inc., 54 Comp. Gen. 66 (1974), 74-2 CPD 64. Neither exception is applicable here.

Regarding the protester's allegations concerning the previous two contracts, whether the items supplied conform to the requirements of the contracts is a matter of contract administration and is not for consideration by our Office. Crowe Rope Company, B-187092, August 18, 1976, 76-2 CPD 174.

Accordingly, the protest is dismissed.


Paul G. Dembling
General Counsel