

DECISION



11614 R. Feldman
THE COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548
Proc II

FILE: B-195377

DATE: October 5, 1979

MATTER OF: Sigma Industries, Inc.

DIGEST:

1. Despite allegation by protester that contract item is in stock for immediate delivery, contracting officer reasonably found bidder nonresponsible where month old preaward survey and later confirmation received from agency technical personnel indicated bidder had serious delivery delinquencies on other Government contracts.
2. Question regarding minority status of awardee is irrelevant to issue of propriety of award since minority status is not requirement for award.
3. Where protester does not allege wrongdoing by Government and requests compensation for production method first proposed to Government in value engineering proposal allegedly to be used by awardee, issue is basically dispute between private parties not for consideration by GAO under Bid Protest Procedures.

Sigma Industries, Inc. (Sigma) protests the award of a contract to Bado Engineering (Bado) under invitation for bids (IFB) DAAJ09-79-B-0392 issued by the Army.

The contracting officer determined that Sigma was not responsible and, therefore, made an award to Bado. Sigma questions this determination, alleging that it has the item in stock, and contends that the firm's delinquency status on other contracts should not affect the contracting officer's responsibility determination for this procurement. For the following reasons, we deny the protest.

CONTRACT

~~Protester Questions Award~~

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At the time of bid opening, the contracting officer had on hand a negative report of a preaward survey on Sigma which was performed during the previous month. Although the survey was conducted in connection with a prior procurement for a different item, it noted that Sigma had an unsatisfactory performance record. In addition, the Small Business Administration declined to issue a Certificate of Competency (COC) in that case only four days prior to the bid opening of the procurement in issue here. The contracting officer contacted Army technical personnel on the day following the bid opening and ascertained that Sigma still had a high delinquency rate and a poor production control system. Based on this information, the contracting officer determined that Sigma was nonresponsive and made an award to Bado.

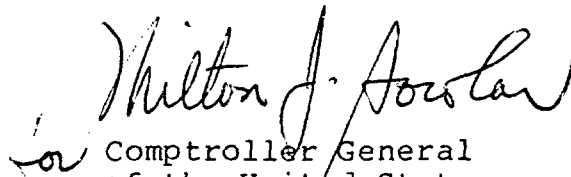
Minimum standards for responsible prospective contractors require, in part, a satisfactory record of performance. Defense Acquisition Regulation (DAR) 1-903.1 (iii) (1976 ed.). In this connection, a contracting officer may rely on a recent preaward survey report on a prior procurement for a different item. Orlotronics Corporation, B-180467, May 13, 1974, 74-1 CPD 245. Moreover, the contracting officer could reasonably rely upon the advice received the day after bid opening concerning Sigma's current high delinquency rate and poor production control system. Struthers Electronics Corporation, B-182967, May 23, 1975, 75-1 CPD 309.

In our opinion, the record in this case provides reasonable support for the agency's negative determination of Sigma's responsibility.

The protester asks several questions relating to how Bado's responsibility was determined and requests to "be informed of" the delivery status of Bado's contracts. Sigma does not, however, allege any specific impropriety with respect to that determination; accordingly, we will not, under our Bid Protest Procedures, consider the issue of Bado's responsibility. Cf. Fire & Technical Equipment Corp., B-191766, June 6, 1978, 78-1 CPD 415.

Finally, Sigma raises two additional issues. First, the protester questions the minority status of Bado in light of Bado's self-certification that it is a minority business enterprise. However, Sigma's objection is irrelevant to the issue of the propriety of the award since minority status is not a requirement for award. Second, the protester alleges that Bado will use a production method first suggested to the Army in Sigma's 1977 value engineering proposal, which the Army refused to accept. Sigma believes it should be compensated for its effort if Bado uses this production method. Sigma, however, does not contend that the Government improperly disclosed its proposal to Bado, or allege any wrongdoing on the part of the Government. Therefore, we believe that this issue is basically a dispute between private parties which is not for consideration under our Bid Protest Procedures. See Bingham, Ltd., B-189306, October 4, 1977, 77-2 CPD 263.

The protest is denied.


Comptroller General
of the United States