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DECISION



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

FILE: B-193684

DATE: October 11, 1979

MATTER OF: Suburban Elevator Company, Inc.

[Protest Alleging Nonresponsibility of Proposed Awardee]
DIGEST: DLG 03029

Where solicitation requires bidders to have three years experience in maintaining elevators similar to those covered by solicitation and to meet special training requirements, bidders must satisfy both criteria to be considered responsible. If one criterion was inadvertently included in solicitation and is not actual agency requirement, solicitation should be canceled as unduly restrictive.

Suburban Elevator Company, Inc. (Suburban) protests the proposed award of a contract by the General Services Administration (GSA) to State Elevator Company, Inc. (State), under invitation for bids (IFB) No. 03C8116301 for elevator maintenance services at the Social Security Payment Center in Philadelphia, Pennsylvania. The IFB was a total small business set-aside. Suburban maintains that State is nonresponsible because it does not meet certain definitive responsibility criteria contained in the IFB relating to a bidder's experience. — DLG 03031

The IFB specifications contain the following provisions relating to the qualifications of a successful bidder:

"1-1 SCOPE:

* * * in order to qualify to the General Services Administration, in addition to the other requirements herein provided, [the bidder] must be prepared upon demand to prove

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to the satisfaction of GSA, that he has maintained, for a minimum period of three (3) years, equipment similar to types of equipment covered by this contract.

* * * * *

"1-2 MANNER AND TIME OF CONDUCTING THE WORK:

* * * The Contractor and maintenance personnel who will maintain the elevators must be especially trained and have adequate experience in the maintenance of these particular types of elevators. The contractor will be required to furnish proof of this training and experience to the satisfaction of the Government.
* * *."

The IFB "Schedule of Requirements" also provides that: "SUCCESSFUL BIDDER WILL BE REQUIRED TO FURNISH A CERTIFICATE OF PROFICIENCY OF TRAINING ON THIS TYPE OF EQUIPMENT."

Finally the solicitation states:

"Offers will be considered only from responsible organizations or individuals now or recently engaged in the performance of building service contracts comparable to those described in the attached schedule."

Suburban asserts that State is nonresponsible because it has never maintained Haughton Model 5ELC elevators controlled by a Haughton Model 1092 Integrated Circuitry Supervisory System (IC) nor has it maintained similar equipment for at least three years. Suburban contends that the equipment at the Social Security Payment Center is "generations" ahead of any equipment ever maintained by State.

GSA argues that a bidder, to be found responsible under the cited provisions, must comply with either paragraph 1-1 or 1-2 of the specifications, but not both. GSA contends that State satisfies the experience requirement of paragraph 1-1 because it has maintained elevators similar to those at the Payment Center. In this regard, GSA indicates that State has serviced elevators at the U.S. Naval Hospital in Philadelphia and the Norristown State Hospital which, in GSA's opinion, have the same operational "philosophy" as those at the Payment Center.

We do not agree with GSA's interpretation of the IFB. Although the four requirements spread throughout the solicitation are confusing, they clearly require a firm to show both that it has maintained similar equipment for three years (paragraph 1-1) and that it and its personnel have been especially trained on the type of elevator to be maintained under the contract (paragraph 1-2 and "Schedule of Requirements"). (It is not completely clear whether the "CERTIFICATE OF PROFICIENCY OF TRAINING" required by the IFB will satisfy the requirement of paragraph 1-2 which requires proof of training on the "particular types" of elevator to be maintained or whether other proof would be needed.) Nothing in the solicitation, however, supports GSA's view that the requirements of paragraphs 1-1 and 1-2 are intended to represent alternative criteria. In fact, paragraph 1-1 states that it is to be applied "in addition to the other requirements herein provided * * *."

Consequently, we believe GSA should reexamine the question of State's responsibility, since there is nothing in the record which indicates that State has offered the certification or any other evidence of training. Neither does the record indicate that State had provided GSA with evidence of three years of experience as required by paragraph 1-1. If State is unable to supply such evidence to GSA's satisfaction, the matter should be referred to the Small Business Administration, which has conclusive authority to determine the responsibility of small business. 15 U.S.C. § 637 (1976 and Supp. I 1977); J. Baranello and Sons, 58 Comp. Gen. 509 (1979), 79-1 CPD 322;

U.S. Eagle, Inc., et al., B-193773, August 2, 1979,
79-2 CPD ____. Alternatively, if GSA did not intend
to impose two distinct responsibility criteria, it
would appear that the IFB is unduly restrictive of
competition. In that event, the IFB should be
canceled and the requirement resolicited under clear
specifications which set forth only GSA's minimum
needs. Haughton Elevator Division, Reliance Electric
Company, 55 Comp. Gen. 1051 (1976), 76-1 CPD 294.

for *Milton J. Fowler*
Comptroller General
of the United States