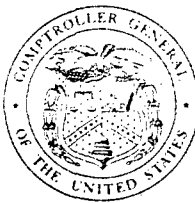


DECISION



12075  
THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

FILE: B-196267

DATE: November 20, 1979

MATTER OF: National Organization Service, Inc. --  
Reconsideration

DIGEST:

*[Protest Alleging Proposed Awardee Could Not Meet IFB Requirement]*  
Request for reconsideration is denied where it fails to specify error of law or present information not previously considered.

National Organization Service, Inc. (National) requests that we reconsider our decision in National Organization Service, Inc., B-196267, October 22, 1979, 79-2 CPD, in which we dismissed the firm's protest against the Department of the Navy's proposed award of a contract to Marketing International, Inc. (Marketing) under an invitation for bids (IFB) for a magazine and newspaper subscription service.

National had protested that Marketing could not meet the IFB's requirement to enter subscriptions with publishers promptly upon the receipt of orders for the listed publications, and therefore could not satisfactorily perform the contract. We stated that the matter involved Marketing's responsibility, and dismissed the protest after being informally advised by the Navy that the firm had been found responsible, since our Office does not review protests against affirmative determinations of responsibility except in circumstances that were not applicable.

In its present request, National suggests that we "misconstrued" the basis for its protest, arguing that it involved the responsiveness of Marketing's bid, not the firm's responsibility. National also questions why we dismissed the protest without first receiving a report on the matter from the contracting agency as provided for in section 20.3(c) of our Bid Protest Procedures, 4 C.F.R. part 20 (1979).

110892  
~~007841~~

Regarding the basis for National's protest, "responsiveness" concerns whether the bid as submitted is an offer to perform, without exception, the exact thing called for in the invitation, 49 Comp. Gen. 553, 556 (1970); acceptance of a "responsive" bid binds the bidder to so perform. Edw. Kocharian & Company, Inc., 58 Comp. Gen. 214, 218 (1979), 79-1 CPD 20. "Responsibility," however, involves whether a bidder that has not taken any exception to the solicitation's requirements has the apparent ability to meet them. Edw. Kocharian & Company, Inc.--request for modification, 58 Comp. Gen. 516, 519 (1979), 79-1 CPD 326. That was precisely the issue raised in National's protest, since there was no indication that Marketing had qualified its bid in any way with respect to the subject requirement. We point out that whether a contractor fulfills its legal obligations under the contract is a matter of contract administration, and is not for consideration under our Bid Protest Procedures. Industrial Maintenance Services, Inc., B-195216, June 29, 1979, 79-1 CPD 476.

Concerning National's remaining point, while it is our general practice to receive a report from the contracting agency involved before resolving a protest, where it is clear from the record provided by the protester or it otherwise becomes evident that a matter is not for our consideration, we will decide the protest without such a report. Tyco, B-194763, B-195072, August 16, 1979, 79-2 CPD 126.

Since National has not specified any error of law or presented any information not previously considered in our original decision, the request for reconsideration is denied. 4 C.F.R. § 20.9 (1979).



For The Comptroller General  
of the United States