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DECISION



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

FILE: B-204547,2

DATE: May 17, 1982

**MATTER OF: International Business Investments--
Reconsideration**

DIGEST:

Prior decision is affirmed upon reconsideration in absence of any showing that decision was based on error of fact or law.

International Business Investments (IBI) requests reconsideration of our decision in International Business Investments, B-204547, March 4, 1982, 82-1 CPD 194. There, we denied IBI's pre-bid-opening protest against a solicitation requirement that bidders submit evidence of possession of a specific State license, under a Department of Health and Human Services (HHS) solicitation for guard/security services, on the ground that a contracting agency may properly require a bidder to hold a specific license as a matter of responsibility.

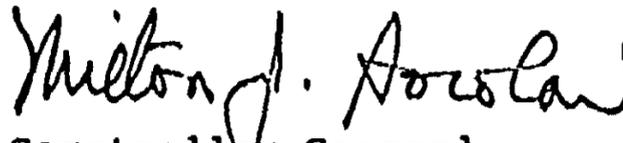
The thrust of IBI's argument is that it is improper to require evidence of a particular license prior to bid opening. IBI urges that HHS's action in requiring the license at bid opening is improper because: (1) it constitutes a prohibited prequalification of bidders; (2) it discriminates against bidders from other portions of the country; (3) it is a matter for resolution by the Small Business Administration under its certificate of competency procedures insofar as bidders are small businesses; and (4) if the low bidder cannot obtain the license prior to the beginning of the time set for performance, then HHS need only default the low bidder and proceed to the next low bidder.

In our prior decision, we limited our decision to the propriety of HHS requiring a specific State license as a matter of responsibility, which can be demonstrated after bid opening, despite solicitation language to the contrary. See 53 Comp. Gen. 51 (1973).

Since the low bidder held the required license and presented it at the time of bid opening, we were not required to decide the effect of a bidder failing to furnish the license at bid opening. Although IBI submitted a bid, the firm was the second low bidder. Therefore, IBI's bid was not rejected, and IBI was not prejudiced by HHS's inclusion of the complained-of provision, since IBI would not have gained the award even in the absence of the provision. Humanics Associates, B-193378, June 11, 1979, 79-1 CPD 408.

Since IBI has made no showing that our denial of its protest was erroneous, we see no reason to consider its arguments further. Virginia-Maryland Associates, Inc.--Reconsideration, B-191252, July 7, 1978, 78-2 CPD 19.

Accordingly, our prior decision is affirmed.

for 
Comptroller General
of the United States