

DECISION



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

FILE: B-216350

DATE: September 18, 1984

MATTER OF: Consolidated Maintenance Company

DIGEST:

Requirements in invitation for bids that contractor/supervisor have 3 years of relevant experience and that bidders submit personnel resumes are not improper merely because they limit the people contractor can provide for contract performance; to be legally objectionable, such requirements must exceed agency's legitimate minimum needs.

Consolidated Maintenance Company (CMC) protests two provisions of invitation for bids No. GS-06B-47612-01, issued by the General Services Administration for building services. We summarily deny the protest.

The first provision of which CMC complains requires the contractor or his representative to have at least "3 years of recent experience in work equal in scope to the duties of this contract in order to be considered for award." The second is a requirement that a resume be submitted for supervisory personnel that will reflect such things as work experience of the past 5 years, educational background, and a statement as to why the particular person "is believed to be qualified for this contract."

CMC asserts that the first provision "is discriminatory and improper since it is infringing on the contractor's prerogative in determining who shall . . . be placed in a supervisory capacity on a fixed price/lump sum contract. . . ." CMC further asserts that the provision is discriminatory against women and minorities who do not have experience. It objects to the resume provision as also "discriminatory" and as having no bearing on an individual's "ability to supervise."

030028

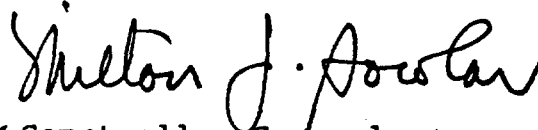
We have long recognized that agencies have the right to impose reasonable restrictions to satisfy their minimum needs. See, e.g., 52 Comp. Gen. 640 (1973); 45 Comp. Gen. 365 (1965). A contractor/contractor personnel experience requirement, intended to give the contracting agency some assurance of performance capability, is not unusual in government procurements, and the fact that a fixed price contract is involved has not been viewed as eliminating an agency's need to assure an appropriate level of competence for contract performance. See 53 Comp. Gen. 331 (1973); Karl Doll GmbH, B-213556, June 6, 1984, 84-1 CPD ¶ 604; Elco Elevator Corp., B-213519, B-213519.2, Feb. 14, 1984, 84-1 CPD ¶ 197; Owl Resources Co., B-210094, Apr. 29, 1983, 83-1 CPD ¶ 461; Logistical Support, Inc., B-208763, Apr. 22, 1983, 83-1 CPD ¶ 436; Mark Dunning Industries, Inc., B-206569, Mar. 19, 1982, 82-1 CPD ¶ 261 (also involving custodial services). It is also not unusual, and not improper, for an agency to seek personnel resumes, particularly for key people, to aid their evaluation of the experience of the individuals who will perform the contract. See Elco Elevator Corp., *supra*; A.R.S. Enterprises, Inc., B-201924, July 7, 1981, 81-2 CPD ¶ 14; Forest & Land Managers, Inc., B-200130, Mar. 2, 1981, 81-1 CPD ¶ 154 (experience questionnaire used in lieu of personnel resumes); Electronic Associates, Inc., B-184412, Feb. 10, 1976, 76-1 CPD ¶ 83.

Obviously, whenever an agency imposes a particular experience requirement, it is placing a limitation on the contractor, and in this case the requirement does indeed limit who may be the contractor's supervisor. That, however, does not make the requirement improper since, as indicated above, only requirements that reflect more than the agency's minimum needs are legally objectionable. CMC does not seem to object to the 3-year requirement as too long or otherwise indicate why the restriction or the resume provision is unreasonable, but rather seems to object to the idea of either type of provision for this contract solely because of the impact the provisions have on the contractor. Such an objection simply does not provide a legal basis for disturbing the agency's use of the challenged provisions.

B-216350

We point out that compliance with these provisions is a matter of bidder responsibility and, since the procurement is set aside for small business, any determination by the contracting officer that a bidder does not satisfy the requirements for experienced and qualified personnel would be referred to the Small Business Administration for a final determination under the certificate of competency procedures. See 15 U.S.C. § 637 (b)(7) (1982); J. Baranello & Sons, 58 Comp. Gen. 509 (1979), 79-1 CPD 322.

The protest is summarily denied.

for 
Comptroller General
of the United States