



The Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: A&C Building and Industrial Maintenance Corporation
File: B-229931
Date: March 25, 1988

DIGEST

A bidder's failure to furnish evidence showing any affiliation is a minor informality which may be waived or cured after bid opening because the information does not affect the responsiveness of the bid.

DECISION

A&C Building and Industrial Maintenance Corporation (A&C), the fourth-low bidder, protests proposed award to any of the lower bidders under invitation for bids (IFB) No. D/L 87-18, a total small business set-aside issued by the United States Department of Labor for janitorial services. A&C contends that the lower bids were nonresponsive.

We deny the protest.

Regarding the low bidder, DOL reports that the bidder was rejected as nonresponsive after the Small Business Administration failed to issue it a Certificate of Competency. Consequently, we find that A&C's allegation concerning the responsiveness of the low bid is moot and need not be considered because the low bidder is ineligible for the award. See Deere & Co., B-224275, Oct. 31, 1986, 86-2 CPD ¶ 504.

A&C contends that the second low bid of Kleen-Rite Corporation should be rejected as nonresponsive because Kleen-Rite did not complete section L.10(b) of the IFB which required each bidder to submit an affidavit indicating no affiliates or the names and addresses of any affiliates or persons or concerns exercising control of the bidder as required by Federal Acquisition Regulation (FAR) § 52.214-17 (FAC 84-13). However, this is not a basis to reject Kleen-Rite's bid as nonresponsive. The failure of a bidder to furnish information on affiliates as required by FAR § 52.214-17 is

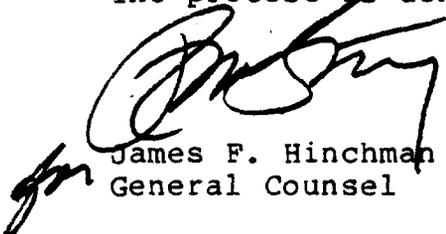
a minor informality, which may be waived or cured after bid opening. See FAR § 14.405(e) (FAC 84-12); Delphi Mechanical, Inc., B-220879, Nov. 15, 1985, 85-2 CPD ¶ 561.

A&C contends that such waiver is not proper here because the solicitation was set aside for small business. A&C argues that by not disclosing the information regarding affiliates, the procuring agency and other bidders are denied information which could alert them to challenge Kleen-Rite's size status.

Kleen-Rite certified itself as a small business concern in its bid. Moreover, the clause is to be utilized if the contracting officer determines that disclosure of affiliated bidders is necessary to prevent practices prejudicial to full and open competition, such as improper multiple bidding. FAR § 14.201-6(k) (FAC 84-5). There is no requirement that the clause be included in small business set-asides and we have approved a similar waiver of affiliate information in other small business set-asides. Rut's Delivery Service, B-217286, Apr. 26, 1985, 85-1 CPD ¶ 474. Therefore, this basis of protest is denied.

Since DOL is proposing to make an award to Kleen-Rite, it is unnecessary to discuss A&C's allegations regarding the third low bidder.

The protest is denied.


James F. Hinchman
General Counsel