



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Margaret N. Cox
File: B-232588.2
Date: December 20, 1988

DIGEST

An unincorporated bidder can demonstrate compliance with special responsibility standards through its employees to the same extent as an incorporated bidder.

DECISION

Margaret N. Cox requests reconsideration of our decision in Margaret N. Cox, B-232588, Sept. 29, 1988, 88-2 CPD ¶ 303, in which we dismissed her protest against the award of a contract under invitation for bids (IFB) No. DABT15-88-B-0079, issued by the Army Soldier Support Center for a Military Writing Assignments Evaluation.

As her basis for protest, Ms. Cox asserted that the award was improper because the awardee did not personally have the academic qualifications called for by the solicitation. We dismissed the protest because the IFB did not preclude a contractor from employing qualified persons to perform the contract and the question of whether the awardee could perform as required concerned the awardee's responsibility, the affirmative determination of which we do not review.

Ms. Cox asserts in her request for reconsideration that our dismissal was improper; she claims she did not contend that the IFB does not permit a contractor to employ qualified individuals to perform the contract and that she did not raise the issue of responsibility. She asks us to consider the question of whether Mr. Wiehe has the qualifications called for by the IFB. Specifically, Ms. Cox argues that Mr. Wiehe, an unincorporated bidder, must personally possess the academic qualifications required in the IFB of "the contractor" to be awarded the contract, irrespective of his ability to employ qualified individuals.

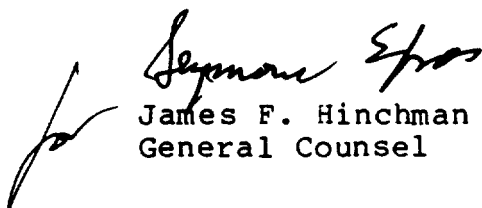
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Mr. Wiehe, as an unincorporated bidder, is treated no differently than is an incorporated bidder. To be eligible for award, he must unequivocally agree to the terms and conditions of the IFB and satisfy the agency of his ability to perform. These determinations concern bid responsiveness and bidder responsibility, respectively.

To be responsive, a bid must constitute an unqualified offer to perform in accordance with all material solicitation provisions. Contract Service Co., Inc., B-226780.3, Sept. 17, 1987, 87-1 CPD ¶ 263. There is no evidence that the awardee took exception to the solicitation's material requirements. On the other hand, a bidder's ability or capacity to perform is a matter of bidder responsibility. The requirement for the contractor to possess certain academic qualifications is a special standard of responsibility.

Mr. Wiehe is not excused from meeting that responsibility standard. However, it is not necessary that Mr. Wiehe, as an unincorporated bidder, personally possess the required academic qualifications. Just as a corporate bidder may be viewed as complying with special responsibility standards through the experience or qualifications of its subcontractors or employees, see, e.g., J. Baranello and Sons, 58 Comp. Gen. 509 (1979), 79-1 CPD ¶ 322; Haughton Elevator Division, Reliance Electric Co., 55 Comp. Gen. 1051 (1976), 76-1 CPD ¶ 294, so may Mr. Wiehe. Stated another way, Mr. Wiehe's legal status as a sole proprietor rather than a corporation does not preclude an affirmative finding of responsibility based on his employment of one or more individuals who meet the special standard. Thus, it was only Mr. Wiehe's ability to employ personnel with the required academic qualifications that was the key to this element of the responsibility determination.

The dismissal is affirmed.


James F. Hinchman
General Counsel