

Ruppert



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Apex Environmental, Inc.

File: B-241750

Date: February 25, 1991

Peter T. Young for the protester.
Robert J. McCall, Esq., General Services Administration, for
the agency.
George Ruppert, Esq., and John M. Melody, Esq., Office of the
General Counsel, GAO, participated in the preparation of the
decision.

DIGEST

Contracting officer reasonably concluded that definitive responsibility criteria requiring awardee to provide documentation showing it has 2 years of experience monitoring asbestos abatement projects, and that it has performed at least 3 contracts over \$100,000, was met by awardee's submission of a list showing the requisite experience and number of jobs, where nothing on the face of the information submitted called its correctness into question.

DECISION

Apex Environmental, Inc. protests the award of a contract to Salut, Inc. under request for proposals (RFP) No. GS-03P-89-DWC-0094, issued by the General Services Administration (GSA) for asbestos abatement monitoring services. Apex contends that Salut failed to meet certain experience requirements, and that it therefore was ineligible for award.

We deny the protest.

Section H (Special Contract Requirements) of the solicitation set forth certain minimum qualifications which offerors were required to meet. Among them was a requirement that offerors submit resumes demonstrating that they have been in the business of monitoring asbestos abatement work for a minimum of 2 years, and that they have performed three monitoring projects with a dollar value over \$100,000.

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Six offerors responded by the proposal due date of June 20, 1990, and all were initially determined to be within the competitive range. The GSA technical evaluation panel and the contracting officer reviewed the proposals and determined that Apex and Salut met the minimum technical requirements. As Salut was determined to be the lowest priced offeror, on September 18 GSA awarded the contract to Salut. On September 20, Apex protested to the contracting officer on the basis of Salut's size status and technical qualifications. Following the contracting officer's denial of its protest, Apex filed this protest with our Office.

Apex principally contends that Salut did not satisfy the requirements under section H of the RFP. In particular, Apex contends that Salut did not demonstrate that it had been in the business of monitoring asbestos abatement projects for a minimum of 2 years, and that its own investigation indicates Salut lacks such experience. Apex also notes in this latter regard that Salut did not enter the Proficiency Analytical Testing (PAT) program until April 1989, less than 18 months before the time of award; Apex suggests that because any firm in the asbestos monitoring abatement field would join the PAT program upon entering the field, this indicates that Salut was not in this field more than 18 months ago.

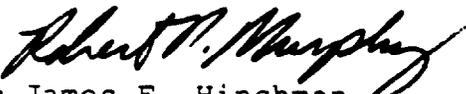
The solicitation requirement that the prospective contractor provide evidence of a specified amount of experience is a definitive responsibility criterion. DJ Enters., Inc., B-233410, Jan. 23, 1989, 89-1 CPD ¶ 59. In reviewing an allegation that definitive responsibility criteria have not been satisfied, we will review the record to determine whether the offeror has submitted sufficient evidence of compliance from which the contracting officer reasonably could conclude that the criteria have been met. Unison Transformer Servs., Inc., B-232434, Nov. 10, 1988, 68 Comp. Gen. 74, 88-2 CPD ¶ 471.

The agency properly determined that Salut met the requirement here. Salut submitted to the contracting officer a list of three projects with fees over \$100,000 where the firm previously had performed similar projects in monitoring asbestos abatement projects and the information indicated that the firm had experience spanning a 2-year period. The projects included work performed at Frostburg State University, a building in Crystal Mall in Virginia and various buildings owned and leased by the GSA in the east and west districts in Washington, DC. There is nothing on the face of the information furnished calling into question its accuracy or verity, and the record does not establish that the contracting officer had other reasons to question the information. See Roth Bros., Inc., B-235539, Aug. 2, 1989, 89-2 CPD ¶ 100.

Notwithstanding the alleged findings of Apex's own investigation (consisting of unsubstantiated allegations which are not supported by any independent evidence in the record), where nothing on the face of information submitted to the contracting officer with the offer calls into question the correctness of that information, the contracting officer is not obligated to conduct an independent investigation to confirm the accuracy of the information. See Roth Bros., Inc., B-235539, supra, and cases cited therein. Although the contracting officer was under no obligation to investigate the information furnished, the record indicates that he did actually verify Salut's 2 years of experience and the contract information by means of telephone inquiries to the listed entities with which Salut had contracted.

Apex also contends that the certified industrial hygienist proposed by Salut is an independent contractor, not a Salut employee, and that the awardee therefore is not in compliance with the solicitation requirement that all work be performed with the contractor's own personnel. This argument is without merit. The record contains a December 20, 1990, letter from the employee stating that he is and has been on Salut's payroll since September 18, 1989. GSA contacted Salut on this point, and Salut confirmed that the individual has been employed by the firm for 1-1/2 years. The employee apparently does also operate a small industrial hygiene consulting business, but there is no RFP prohibition against such other business interests by a contractor's personnel.

The protest is denied.


for James F. Hinchman
General Counsel