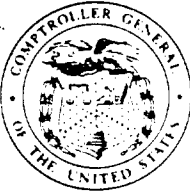


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DECISION



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

50503

FILE: B-182890

DATE: February 4, 1975

MATTER OF: Inter-Alloys Corporation

DIGEST:

1. Allegation that low bidder is nonresponsible because of inadequate past performance will not be considered by GAO, since practice of reviewing bid protests involving contracting officer's affirmative determination of responsibility has been discontinued absent showing of fraud in finding; however, copy of protest has been forwarded to contracting agency and it is assumed that agency will consider allegation in responsibility determination of low bidder.

2. Allegation that decision of Government not to exercise option under prior contract, but to recompete same item under IFB in question, thus affording prior awardee opportunity to rebid option and obtain price increase per unit is not matter for resolution under bid protest procedures and will not be considered on merits. Appropriateness of exercising option under prior contract is matter of contract administration which is function and responsibility of contracting agency.

Inter-Alloys Corporation (I-A) protests the making of an award of a contract under invitation for bids (IFB) DAAK01-75-B-2038, issued by the United States Army Mobility Equipment Command, St. Louis, Missouri, to the G. W. Galloway Company (Galloway). I-A asserts as the basis for its protest that the low bidder, Galloway, is a nonresponsible bidder because of alleged inadequate prior contract performance. Alternatively, I-A contends that the issuance of the IFB in question was improper, as the Government presently holds the option to purchase a specified quantity of the same items under an existing contract with Galloway. Therefore, I-A contends that the Government's decision not to exercise this option has given Galloway the opportunity to rebid its option and obtain a price increase per unit.


For the reasons that follow, our Office must decline to consider either allegation on its merits.

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As concerns the first contention, our Office has discontinued the practice of reviewing bid protests involving a contracting officer's affirmative determination of responsibility of a prospective contractor. The determination of responsibility is largely within the discretion of the procurement officials who must bear any difficulties experienced by reason of a contractor's nonresponsibility. If the contracting officer finds the low bidder responsible, we do not believe the finding should be disturbed absent fraud. Matter of Eastern Home Builders and Developers, Inc., B-182218, November 29, 1974.

I-A's second contention that the existing option with Galloway should have been exercised instead of issuing the present IFB pertains to contract administration which is a function and responsibility of the contracting agency. Matters of contract administration are not for resolution under our bid protest procedures which are reserved for considering whether an award, or proposed award, of a contract complies with statutory, regulatory and other legal requirements. However, for I-A's information, we have been advised informally that the procuring activity determined that exercising the option quantity would make a competitive procurement for the additional quantity included in the IFB economically unfeasible. Therefore, it was decided that the option should not be exercised.

In view of the foregoing, we will not consider either issue of I-A's protest on the merits. However, a copy of the protest has been forwarded to the contracting agency and it is assumed that the agency will consider the allegation of inadequate prior contract performance in the responsibility determination of Galloway.


Deputy Comptroller General
of the United States