DECISION

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

FILE: B-186279 DATE: November 11, 1976

MATTER OF: George Hyman Construction Company of Georgia
Westinghouse Elevator Company

DIGEST:

Procuring agency properly found the elevator and building systems and control subcontractors proposed by low bidder for federal office building and courthouse to have met the qualification requirements of the IFB.

The George Hyman Construction Company of Georgia (Hyman) and Westinghouse Elevator Company (Westinghouse) have protested the award of a contract by the General Services Administration (GSA) to Frank Briscoe Company, Inc. (Briscoe) for construction of the Richard B. Russell Federal Building Georgia, Project No. NGA 73005. Hyman and Westinghouse assert that two subcontractors which Briscoe proposed to use do not meet the qualifications required by the invitation for bids.

The solicitation required bidders to submit with their bids the names and business addresses of subcontractors (or the bidder itself) who would perform certain categories of work. In some instances, discussed in detail below, this work only could be performed by firms having special competence or qualifications. The IFB cautioned bidders that:

"The listing of an individual or firm (whether a subcontractor or the bidder) who does not meet the requirements of the Specialist or Competency of Bidder clauses in the specifications, wherever applicable, may be grounds for rejection of the bid."

The instant protests are concerned with two portions of two categories of work: "Section 1420, Electric Elevators" and "Section 1701 Building Systems and Control General Requirements." As we have indicated above, the protesters contend that the subcontractors listed by Briscoe for these categories of work do not possess the requisite special qualifications. We shall discuss each work category separately.

Electric Elevators

Section 1420 of the specifications covered the furnishing and installing of electric elevators. Paragraph 4.0 of Section 1420, "Qualifications", stated:

"4.1 The bidder, or the subcontractor for performance of the elevator work, shall have had at least three years' successful experience in installing and servicing elevators.

"4.2 In addition, the bidder - the subcontractor shall have installed, on at least two prior projects, elevators which are comparable to those required for this project and which have performed satisfactorily under conditions of normal use for a period of not less than one year. To be considered comparable, prior installations shall have not less than the same number of elevators operating together in one group as the largest number in any group specified for this project, except that a group of four may be considered comparable to a larger group specified for this project.

"4.3 A list of the prior comparable installations by the bidder or by the subcontractor, together with the names and addresses of the buildings, the names of the owners or managers thereof, and any other pertinent information required shall be submitted promptly upon request of the Government.

"4.4 The names, addresses, experience, and a statement of the work to be performed by each subcontractor or second-tier subcontractor whom the bidder or the principal subcontractor, as the case may be, will use for performance of minor portions of the installation of elevators, shall also be submitted promptly upon request by the Government.

"4.5 The bid may be rejected if the bidder or the elevator subcontractor has established on former jobs, either Government municipal, or commercial, a record for unsatisfactory elevator installations, has repeatedly failed to complete contracts awarded to him within the contract time, or otherwise fails to meet the experience requirements of this clause.

"4.6 Where an elevator subcontractor is used, all work specified under this section shall be included under one subcontract notwithstanding any provision contained in either the clause 'Subcontracts' in the General Conditions or the clause 'Listing of Subcontractors' in the Special Conditions."

With regard to the material to be furnished for the elevators, paragraph 5.0 of Section 1420, "Material," provided in part:

> "5.1 The major elevator components shall be the products of one manufacturer of established reputation, except they may be the products, either wholly or in part, of another manufacturer of established reputation provided such items are capably engineered and produced under coordinated specifications to insure a high grade, safe and smooth operating system. Also, the major components to be furnished for this project shall be of a make or makes that have performed satisfactorily together under conditions of normal use in not less than two other elevator installations of equal or greater capacity and speed for a period of at least one year. Upon request, the Contractor shall furnish the names and addresses of the buildings and the names of the owners or managers thereof, in which the proposed combination of major components has so performed." (Emphasis added.)

Briscoe listed as its subcontractor for the performance of Section 1420 the Dover Corporation. The sole basis upon which Hyman and Westinghouse contend that Dover is unqualified is that it has not installed on at least two prior projects elevators which are "comparable" to those required for this project. In this regard, both protesters point out that among the elevators required is a bank of six, each of which is to have the capacity to lift 3,500 pounds at a speed of 1,000 feet per minute. The protesters concede that under the terms of paragraph 4.2, Dover may satisfy this requirement by having previously installed banks of four elevators, which the record shows Dover has done. However, the protesters maintain that Dover's prior installations are not "comparable" to that required by the instant contract because at the most Dover has shown only one instance in which the elevators were equal to or greater than a capacity of 3,500 pounds and a speed of 1,000 feet per minute. In addition, prior installations achieving those capacity and speed requirements using components proposed by Dover were made by another firm whose experience cannot be imputed to Dover, the protesters contend.

GSA notes that paragraph 5.1 of Section 1420 requires the contractor to supply elevators whose major components are "of a make or makes that have performed satisfactorily together under conditions of normal use in not less than two other elevator installations of equal or greater capacity and speed for a period of at least one year." (Emphasis added.) Dover has advised Briscoe that it intends to furnish

elevator components manufactured by General Electric and K. M. White which the record shows have been successfully used in two other buildings in banks of four or more and at capacities and speeds equal to or greater than those required here. However, these installations were not made by Dover.

Hyman and Westinghouse argue that in order to be a qualified subcontractor Dover must show that it has made at least two other elevator installations of capacity and speed equal to or greater than those required for the Russell Building using components of the same manufacturers in each instance. However, GSA notes that paragraph 5.1 of Section 1420 does not require that the subcontractor proposed for this contract have made the prior installations but only that the equipment proposed has been previously used and found satisfactory. GSA's position in effect is that paragraph 5.1 is intended to assure that the major elevator components - the materials - used in this project be of proven reliability, and that Section 5.1 does not establish experience qualifications of the elevator subcontractor.

Insofar as it required the elevator subcontractor to have installed "comparable" elevators, GSA stated it deliberately chose a restrictive meaning of that term in paragraph 4.2 of Section 1420. After setting forth the qualification requirement that the subcontractor have installed "comparable" elevators which have performed satisfactorily on two prior projects, paragraph 4.2 states that "To be considered comparable, prior installations shall have [four] elevators operating together as one group * * *." (Emphasis added.) GSA has provided the following explanation of why it meant to restrict "comparability" to prior installations in "groups of four", without regard to the elevators' capacity, speed, or manufacturer:

> "With respect to elevator controls, however, experience of a bidder or its proposed elevator subcontractor in making the installation was considered to be so essential as to be made an element of determining eligibility for award. Where a single elevator is operating alone or in conjunction with one other elevator, the required control system is of a relatively simple type. However, it is preferable in connection with a group of three elevators and essential in connection with a group of four or more elevators, to utilize a 'supervisory control system.' A supervisory control system is sophisticated and complex, consisting of computer-like equipment which coordinates and controls the operation of the individual elevators within the group. It continuously monitors

> all elevators in the group and is programmed to perform the functions specified (see, for example, the dispatching operations set out in paragraph 32 of Section 1420). Because of the complexity of the supervisory control system and the fact that life and limb are dependent upon elevators controlled by such a system working satisfactorily, GSA concluded that the competitive field should be restricted to those who could demonstrate comparable prior control installation experience. The Competency of Bidders clause, as revised and as now in use, requires evidence of satisfactory experience in installation only to the degree necessary for each individual project by casting the experience requirement in terms of satisfactory prior installations of the same number of elevators working together in a single group as the largest number in any group in the particular project, since the number in a group dictates the control system that will be required. That is, if a project calls for installation of only single elevators, then firms having installed only the simple type of control system will all be eligible to compete. But if the project entails a bank of four elevators working together in a group, the only firms qualified to compete will be those who can demonstrate that they have installed at least four, working together in a group; the added requirement that the installation must have been in satisfactory operation ensures that the installer has had the requisite experience in installing controls of the complex, sophisticated group supervisory type."

Since there is no question that Dover has installed elevators in "groups of four" before, although of lesser capacity and speed than those required here, GSA determined Dover to be qualified.

We believe the requirement for the bidder or its subcontractor to have installed comparable elevators is a specific and objective standard of responsibility reviewable by this Office under Haughton Elevator Division, Reliance Electric Company, B-184865, May 3, 1976, 76-1 CPD 294.

In our opinion, the record supports GSA's position that "groups of four" operation was the sole criterion of comparability. The first sentence of paragraph 4.2 of Section 1420 sets forth the requirement of comparability. The second sentence states that "To be considered comparable" prior installations must have had at least four elevators operating together in one group. Here, we think paragraph 4.2

reasonably expressed the thought that "groups of four" operation was the sole criterion of comparability of interest to CSA. Since there is no question that Dover has satisfied this requirement, in this respect the contracting officer properly found Briscoe to be a responsible prospective contractor.

Building Systems and Control

The IFB also required bidders to list the firm which was to perform Section 1701 of the specifications, "Building Systems and Control General Requirements." Briscoe indicated that F and M Systems Company (F&M) would perform this work for it. Hyman contends that F&M does not have the qualifications required of it by the IFB.

Paragraph 3.0, "Qualifications" of Section 1701 established certain qualifications required of the building systems and control manufacturer, one of which was that the manufacturer be a "specialist" as defined by the IFB's "Special Conditions." Since the requirements for being a "specialist" overlap to some degree those imposed by paragraph 3 of Section 1701, similar portions of the two provisions are quoted adjacent to each other below

Paragraph 3 of Section 1701	agraph 12.2, cial Conditions
"3.1 The manufacturer of the B. S. & C. equipment shall be qualified to the satisfaction of the Contracting Officer by reason of:	.2 Where the term 'specialist' is used qualifying a manufacturer or fabricator it shall be interpreted for this project as:
.1 Being a 'specialist' as defined in Section 'Special Conditions.' [See adjacent column.]	12.2.1 one who has manufactured products in kind, quality, and quantity to comply with provisions of this project;
.2 Having been in business as a controls manufacturer for at least five years, and who issues complete catalog information covering a full line of required equipment.	12.2.2 one who has manufacturing facilities and skilled personnel capable of complying with provisions of this project, including, but not limited to, timely completion;
	12.2.3 one who has been manufacturing products similar to those specified for this project for at least a 5 year period immediately prior to this project;

.3 Manufacture at least 35% (dollar value) of the components of the entire system.

.4 Having a fully staffed service organization located within 25 miles of the project site.

.5 Having produced equivalent systems components which are installed and fully operational in not less than three facilities of comparable size and complexity."

12.2.4 one who can identify 3 projects on which he has provided items similar to those specified for this project which have been installed at least 2 years, giving names, phone numbers, and addresses of owners, Architects, and General Contractors."

The protester initially argued that F&M failed to satisfy every one of these requirements. However, after carefully examining the entire record, including the protester's lack of a rebuttal to the agency's response to several of its arguments, it appears to us that these arguments have widely varying degrees of significance and merit. We believe the record supports the agency's position that F&M satisfies the requirements of having 5 years' experience, submitting complete catalog information, doing at least 35 percent of the manufacturing, and having a fully staffed service organization.

We do not think these arguments merit further discussion.

A more significant issue is whether F&M has satisfied the requirement of the "Qualifications" provision that it have produced "equivalent systems components which are installed and fully operational in not less than three facilities of comparable size and complexity" and the similar "Specialist" requirement of identifying three projects installed for at least two years for which the firm has provided items "similar" to those specified for this project. The protester and the agency remain in sharp disagreement as to whether F&M has produced "equivalent" or "similar" items in three other installations of "comparable" size and complexity.

The building system and controls for which F&M is Briscoe's subcontractor represent almost $2 million of the $47 million project. By means of this system an operator seated at a console can monitor certain values and conditions (such as temperature, humidity, cubic feet

per minute, gallons per minute, kilowatts, amperes, and volts) through a network of sensors located throughout the building. The control system reacts to these phenomena either automatically or through instructions given by the operator. Several examples of the system's functions follow: When cooling is required, the system measures the heat content of outside air and inside air and automatically positions dampers to use the air source having the lower total heat, in order to reduce energy consumption. The system can monitor the temperature and volume of liquids and air circulating through the heating-venting-air conditioning system. In the event of a fire, the system automatically sends an alarm to the fire department, returns elevators to the base floor, adjusts the ventilating system to confine smoke to the affected floor, and plays pre-recorded messages giving building occupants safety instructions.

F&M submitted information about three of its prior installations in order to satisfy the solicitation requirements, quoted above, that it have provided "similar items" or "equivalent systems components" on "three facilities of comparable size and complexity." The three facilities were the Seattle-Tacoma International Airport, the City of Houston water distribution system, and the Ontario, Canada, Hydro Electric Power Commission.

F&M's work at the Seattle-Tacoma International Airport represented $3,600,000 of a $150,000,000 contract. According to F&M:

> "This system monitors and controls over 7,000 functions and devices critical to the airport operations, including utilities, security, fire protection, carbon-monoxide concentrations, baggage handling, transportation and communications systems, and terminal building requirements."

GSA found the Seattle-Tacoma project to be "comparable in scope, size, and complexity" to the instant project insofar as the building systems and controls were concerned.

The City of Houston installation, which accounted for almost $2,000,000 of a $25,000,000 contract, collects data from 10 pumping stations, 56 well sites, and 155 grid pressure points and transmits it to a central control facility. Pumps throughout the system can be started or stopped individually to respond to the demand shown by the sensing network. GSA found the Houston system to be "basically comparable" to the instant one with regard to the "technical expertise" required and more specifically found that:

> "Sensing at pressure points and control of mechanical and electrical devices and equipment is considered

> basically equal to the same requirement for temperature and/or pressure sensing elements of an air and/or water distribution system in the Richard B. Russell Building."

F&M's Canadian contract was valued at $5,253,423 out of a total contract value of $35,000,000. The system gathers data from 64 remote locations and displays it on a large wall diagram containing 26 color cathode ray tube (CRT) displays. From the control center, electrical energy generating equipment can be stopped, started and controlled so that electricity can be economically distributed throughout Ontario Hydro's 250,000 square mile service area.

GSA considered the Ontario Hydro system "comparable in size" to that required for the Russell Building and stated that:

> "The requirements of cathode ray tube displays on 26 screens with wall diagrams; data collection from the 64 remote locations with automatic analysis and dissemination of this data for remote control and programming of equipment by computers is considered comparable to the systems required for the Richard B. Russell Federal Building."

GSA has advised our Office that it considered F&M as meeting the experience requirement of the IFB because these three prior projects were of similar size (as shown by their dollar amounts) and because all three "performed the functions of sensing and transmitting reporting signals (electronic data gathering), which data is recorded and analyzed by computer which, in turn, activates controls, displays and/or communication devices."

The protester's contention that these three prior installations do not qualify F&M essentially rests upon the fact that for the most part they are not systems and controls for buildings. The protester concedes that the fire protection system at the Seattle-Tacoma International Airport is relevant experience even under its view. However, the protester states that the Houston and Ontario projects are industrial-type installations requiring the measurement of different phenomena than those present in the Russell Building and therefore do not form the basis for a determination that F&M possesses the required experience.

We do not believe the record supports the protester's position that the prior experience must have been exclusively with systems and control in buildings. Paragraph 3.5 of Section 1701 refers to prior installations "in not less than three facilities of comparable size and complexity." (Emphasis added.) Paragraph 12.3.4 of the IFB Special

Conditions speaks of "projects." "Facilities" and "projects" are general terms which could include public utility systems such as those in Houston and Ontario. Had the procuring agency meant to restrict the prior experience to "office buildings" it could have done so.

We also believe the procuring agency was reasonable in considering F&M's prior experience in Seattle, Houston and Ontario as satisfying the qualification requirements. The protester has placed great emphasis upon the fire management and life safety audio systems, emphasizing that only at Seattle did F&M furnish a fire protection system. The protester argues that the Houston and Ontario systems were quite different than anything required in the Russell Building.

From our review of the record, including the specifications for the building systems and controls, we believe that to concentrate almost exclusively as the protester has done upon the fire management and life safety systems is to lose perspective of the system as a whole. The system has a number of other functions and capabilities, such as the monitoring and stopping or starting of equipment and the monitoring of values such as pounds per square inch, cubic feet per minute, gallons per minute, gallons, kilowatts, kilowatt hours, amperes, volts and BTU's. We are not persuaded by the protester's arguments that GSA was unreasonable in concluding that F&M's experience at Houston and Ontario was comparable to the work required at the Russell Building.

In view of the above, the protest is denied.

R. F. Keller

Deputy Comptroller General
of the United States