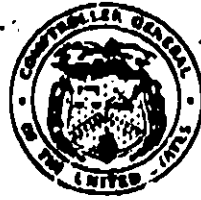


01476

Joseph Rotopoulos

Proc. II

DECISION



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

FILE: B-187703

DATE: January 25, 1977

MATTER OF: Continental Service Company

DIGEST:

1. Although GAO will ascertain whether a bidder has supplied evidence to demonstrate compliance with definitive responsibility criteria contained in solicitations, once it has been determined that such evidence has been furnished, GAO will not further consider objections concerning quality of that experience, which is matter for subjective judgment of contracting officer.
2. Information concerning a bidder's responsibility may be furnished after bid opening.
3. Protest allegation filed more than 10 days after basis for allegation was or should have been known is untimely and not for consideration on the merits.

The subject protest has been filed against an affirmative determination of responsibility made by the National Aeronautics and Space Administration (NASA) for the low eligible bidder under invitation for bids (IFB) No. 6P-3171, issued by NASA's Wallops Flight Center, Wallops Island, Virginia, for services and materials to provide fire fighting and plant security services.

It is contended by the protester that the low eligible bidder does not meet specific qualifications set out in the invitation; that the evidence furnished by that bidder in support of its qualifications is lacking in probative value and that the subject bidder's prior experience is not sufficiently sophisticated for the effort contemplated by the invitation; that the contracting agency improperly permitted that bidder to supply information after bid opening to establish that it met detailed experience requirements; and that a comparison of bids indicates "inconsistent bid prices and hours estimated" in the low eligible bid about which the contracting officer should be alarmed.

The record reveals that bids were opened on September 24, 1976, and that the low bidder, Chemal, Inc., was permitted to withdraw shortly thereafter on the basis of a mistake in bid, leaving Paul W. Bowden as the low eligible bidder.

The invitation's Article III, Bidders' Qualifications, required bidders to furnish evidence of having performed fire fighting services "of the type required for a period of at least three years" and of experience in providing plant security services. Accordingly, Bowden was requested after bid opening to furnish evidence that it met the experience requirements, and also to verify his bid prices.

Subsequently, Bowden furnished an account of his personal experience in fire fighting services as well as the experience of one of his employees. In addition, Bowden advised NASA of prior guard duty services he had provided in the area, which was confirmed by NASA on the basis of a third party affidavit, as well as his prior guard duty experience in the United States Navy. With regard to the evidence in support of fire fighting experience, Bowden advised that from 1946-1959 he operated all types of fire fighting equipment and assisted in putting out fires, responding to such diversified emergencies as fires, explosions at the launch area, structural fires, fuel spills, and other hazards peculiar to a launching range and aviation station. Additionally, he represented that he had attended and completed fire fighting courses in shipboard fire fighting, crash and oil fires, pump operators school, salvage school, fundamentals of fire fighting, and crash fire fighting and rescue.

After evaluating this information, the contracting officer determined that Bowden meets the IFB's experience requirements and otherwise meets the minimum standards for responsible prospective contractors and is therefore eligible for award.

This Office does not review protests against affirmative determinations of responsibility unless either fraud is alleged on the part of procuring officials or the solicitation contains definitive responsibility criteria which allegedly have not been applied. Central Metal Products, Incorporated, 54 Comp. Gen. 66 (1974), 74-2 CPD 64; Yardney Electric Corporation, 54 Comp. Gen. 509 (1974), 74-2 CPD 376. Since the experience provision is such a criterion, the matter is appropriate for our consideration. Our review, however, is limited essentially to ascertaining that evidence of the specified experience has been submitted. We will not, absent allegations of fraud, further review the sufficiency or relative quality of that experience since that is a matter reserved to the subjective judgment of the contracting officer. See Yardney Electric Corporation, *supra*.

Here the record clearly shows that Bowden submitted various documents as evidence of his prior experience in providing both the fire fighting and security services, and that the protester

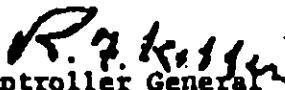
B-187700

basically questions the relevance or quality of that experience. The contracting officer has considered the evidence presented and concluded that Bowden satisfies the IIB criterion. Inasmuch as there is no indication or allegation of fraud in connection with the contracting officer's determination, we cannot further consider the matter.

Concerning the legal propriety of accepting from Bowden, after bid opening, the information required to determine compliance with the experience requirements, we have held that when required information pertains solely to a bidder's responsibility, it need not be submitted with the bid but may be furnished up to the time of award. See, e.g., Bryan L. and F. E. Standley, B-186573, July 20, 1976, 76-2 CPD 60.

As for counsel's concern over Bowden's "inconsistent" and "alarmingly low" prices for basic items, the record indicates that NASA requested Bowden to verify his bid prices and that Bowden did so, stating that they were based on providing full services. In any event, this protest allegation is not for consideration on the merits since it was not filed until January 11, 1977, and is therefore untimely under 4 C.F.R. 20.2(b) (1976), which requires that protests be filed within 10 days after the basis for protest is known or should be known.

For the foregoing reasons, the protest is denied.


Deputy Comptroller General
of the United States