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R. Martin  
Proc II



**DECISION**

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

**FILE: B-190167**

**DATE: February 17, 1978**

**MATTER OF: Reliable Building Maintenance Co.**

**DIGEST:**

Although IFB required bidders to submit information concerning their proposed executive housekeeper with bids for custodial services, bidder may propose after bid opening to use substitute executive housekeeper where housekeeper cited in bid is found unacceptable, since requirement pertains to responsibility and not bid responsiveness.

Reliable Building Maintenance Co. (Reliable) protests the pending award of a contract for hospital custodial services to Hamilton Enterprises (Hamilton) under Invitation for Bids (IFB) No. F04604-77-B-0013 issued by the Procurement Division, Castle Air Force Base, United States Air Force (Air Force).

The solicitation contained the following provision:

**"TP 1.02 SUPERINTENDENCE BY CONTRACTOR:**

"(a) The contractor is to assign an Executive Housekeeper to serve in full time duty residence during normal working hours of the health care facility for the purpose of supervising and training the contractor's housekeeping employees and insuring effective compliance with all provisions contained in this contract. The contractor will appoint shift leaders for each shift in order to provide supervisory capability whenever housekeeping personnel are on duty. The contractor will provide written notification to the TRCO appointing all shift leaders assigned to this project.

"(b) Executive Housekeeper: All offerors are required to include with their offers the curriculum vitae of the Executive Housekeeper proposed to be assigned to the health care facility. Documents that attest to the qualifications of

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this Executive Housekeeper such as educational background information, letters from health care facility employees for whom he/she worked within the past two years, etc., are to be included. Supporting information should be clear and detailed enough to allow proper evaluations by government personnel. To qualify as an Executive Housekeeper individuals shall have completed either (1) or (2) of the following:

"(1) A publicly offered housekeeper's course whose curriculum emphasizes hospital sepsis and is comparable to that required for certification by the National Executive Housekeeper's Association.

"(2) A formal Executive Housekeeper's course or in-service management training program, emphasizing hospital sepsis, which has been previously established and sponsored by a contract hospital housekeeping service activity, and is comparable to the NEHA recognized course curriculum. A copy of the course outline shall be appended to the curriculum vitae of the proposed Executive Housekeeper for evaluation of adequacy by the Pre-Award Survey Team.

"(c) Executive Housekeeper meeting the training requirements of paragraph b(1) or b(2) above will be required to have had at least one year of experience in hospital housekeeping management within the last two years. Certification of this experience to include the name and address of the health care facility where this service was performed will be included in the curriculum vitae of the proposed Executive Housekeeper.

"(d) Any Executive Housekeeper who is employed by the contractor during the course of this contract must qualify under the provisions of the above criteria."

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Initially the contracting officer determined Hamilton's bid to be nonresponsive because its proposed executive housekeeper did not have the experience and training required by the IFB. Hamilton protested to this Office and during the development of the protest, the Air Force determined that the requirement pertained to responsibility rather than responsiveness. The contracting officer was instructed to determine Hamilton's responsibility and if it turned out to be negative, to refer the matter to the Small Business Administration (SBA) for processing under its Certificate of Competency (COC) procedures. At this point, Reliable, the next lowest bidder, protested to this Office contending that Hamilton should be rejected as nonresponsive.

After a pre-award survey, the contracting officer determined Hamilton to be nonresponsive because of inadequate financial resources and the unacceptability of its proposed executive housekeeper and referred the matter to the SBA. During SBA's processing, Hamilton improved its financial resources and employed a qualified executive housekeeper. The SBA issued a COC certifying Hamilton's competency as to capacity and credit to perform the contract.

The Air Force states that the education and experience requirements for the executive housekeeper were specified in the IFB for purposes of allowing the Government to evaluate the responsibility of prospective contractors. Thus, Hamilton's submittal after bid opening of information concerning a qualified housekeeper was properly accepted. The Air Force further contends that the COC issued by the SBA under 15 U.S.C. 637(b)(7) (1970), as amended by Public Law 95-89 effective August 4, 1977, is conclusive upon the issue of the responsibility of Hamilton.

Reliable challenges the finality of the SBA's determination of responsibility in this case because it states the issue is one of responsiveness and not of responsibility. It argues that responsiveness must be determined from the bid itself at the time of bid opening. Reliable contends that while solicitation requirements which concern the experience of the bidders generally relate to responsibility, there are exceptions. Reliable cites 48 Comp. Gen. 291 (1968) as holding that where, as here, mandatory experience requirements go to the question of whether a person is capable of

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performing the job, the matter is one of responsiveness. It also cites Westinghouse Electric Corporation, B-187984, September 2, 1977, 77-2 CPD 171 to support its contention that the specified requirements for the executive housekeeper cannot be waived where p. justice would result to the other bidders.

A bid which is nonresponsive at bid opening must be rejected and it cannot be made responsive after bid opening through the submission of additional information. 46 Comp. Gen. 434 (1966); 40 id. 432 (1961). However, information bearing on responsibility may be furnished after bid opening. Allis Chalmers Corporation, 53 Comp. Gen. 487 (1974), 74-1 CPD 19; Concept Merchandising Inc., et al., B-187220, December 17, 1976, 76-2 CPD 505. Moreover, a matter of responsibility cannot be made into a question of responsiveness by the terms of the solicitation. Haughton Elevator Division, Reliance Electric Company, 55 Comp. Gen. 1051 (1976), 76-1 CPD 294. Unlike the Westinghouse case, supra, cited by Reliable, the issue here is not one involving waiver of responsibility criteria specified in the solicitation because none of the required qualifications for the executive housekeeper has been waived.

The solicitation calls for bids to perform definitely described custodial services and the furnishing of personnel is incidental to the proper performance of such services. The contract to be awarded requires the services of a housekeeper who meets the specified qualifications. However there is no prohibition in the solicitation against changing housekeepers before or after award so long as the qualifications are met. Moreover there is no provision for termination or amendment of the contract upon the death, reassignment or resignation of the housekeeper. The solicitation does require that there be attached to the proposed housekeeper's resume, evidence of the required training "for evaluation of adequacy by the Pre-Award Survey Team" (Paragraph (b) above) and such a team is involved only after a bid has been found responsive. The solicitation cannot be reasonably interpreted as requiring that a proposed housekeeper be employed by a bidder at the time of bid submission or as requiring a commitment by a bidder to assign the proposed housekeeper if awarded the contract. In the absence of a specific requirement in the solicitation, there is no commitment by a bidder to assign those whose

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resumes are submitted with the bid. SI Stems, Inc.,  
B-189410, December 15, 1977, 77-2 CPC Thus, in our  
opinion, the information concerning the housekeeper per-  
tains to the ability and not the legal obligation of the  
bidder to perform the contract and was solicited for  
purposes of determining responsibility.

In 48 Comp. Gen. 291 (1968) which Reliable cites,  
the solicitation required the bidders to submit with their  
bids information showing that diesel engine generators of  
the same model to be furnished had satisfactorily performed  
at a rated horsepower for a minimum of 8000 hours of actual  
operation. After the bid opening the protester was refused  
permission to submit additional material concerning operating  
experience of another generator. It was held that the experi-  
ence requirements were concerned with the reliability of the  
item offered rather than the capability of the bidder and thus  
pertained to the responsiveness of the bid. As discussed above  
it is our view that the experience and training requirements  
for the executive housekeeper are concerned with the capabil-  
ity of the bidder and thus pertain to responsibility. There-  
fore, the information submitted by Hamilton after bid opening  
may be considered.

Accordingly, this protest is denied.

*R. F. K...*  
Deputy Comptroller General  
of the United States