

Proc I

DECISION



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

9371

FILE: B-193479

DATE: March 8, 1979

MATTER OF: Science Applications, Inc.

DIGEST:

[Failure to Submit Resumes with Bid Does Not Justify Rejection for Nonresponsiveness]

1. Where solicitation calls for submission of personnel resumes with bids for use in determining compliance with specified experience requirements, resumes pertain solely to bidder's responsibility and may be submitted after bid opening regardless of language in solicitation requiring submission of resumes for bid to be responsive. Low bidder's failure to submit resumes with bid does not justify rejection of bid for nonresponsiveness.
2. Where solicitation requires that firm and its professional employees have specific minimum experience in areas related to performance, requirements are definitive criteria of responsibility and do not raise question of responsiveness. Failure of low bid on its face to comply with experience requirements does not justify rejection of bid for nonresponsiveness.

Consumer Dynamics, Inc

DLG01101

Science Applications, Inc. (SAI), protests award of a contract under invitation for bids (IFB) No. INT-78-12, issued September 11, 1978, by the Intermountain Forest and Range Experiment Station, Forest Service.

Dept. of Ag

The solicitation required the successful bidder to prepare handbooks synthesizing information amassed by the Surface Environment and Mining program relating to resource management and the environmental impact of surface mining. The preparation includes conducting workshops to develop the information and then writing the handbooks.

DLG01102

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SAI was low bidder. However, the contracting officer rejected SAI's low bid because it failed to establish that SAI would furnish a Senior Writer as required by the IFB, and because SAI's bid did not demonstrate that SAI had the minimum experience required by the IFB. SAI filed its protest with this Office on November 13, 1978, after the contracting officer orally advised SAI of his decision. On December 12, 1978, the contracting agency awarded a contract to the second low bidder, Consumer Dynamics, Inc., after making a determination ^{orig} ~~that the services~~ _{concerned} were urgently required and that failure to make award would unduly delay performance.

With regard to the issue of SAI's purported failure to furnish a Senior Writer, the IFB required:

"In order to be responsive to this solicitation, bidders must submit with their bids resumes of professional employees of the bidder's firm.

* * * * *

"Personnel working under this contract must have the required qualifications established by resumes furnished with the bid. Personnel shall be as follows:

* * * * *

"SENIOR WRITER * * *."

The IFB also listed specific minimum experience requirements for a Senior Writer.

SAI agreed to furnish everything required by the IFB. However, it failed to submit a resume for a Senior Writer with its bid. As will be shown, SAI's failure to submit a resume with its bid did not justify rejection of the bid.

It is well settled that solicitation provisions requiring the submission of information necessary to determine compliance with specified bidder experience

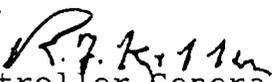
requirements pertain solely to the bidder's responsibility, i.e., its overall capacity to perform the prospective contract, and that such information need not be submitted with the bid but may be furnished up to the time of award. Thermal Control Inc., B-190906, March 30, 1978, 78-1 CPD 252. This is so regardless of solicitation language requiring inclusion of the information for the bid to be responsive, because a contracting agency cannot make a matter of responsibility into a question of responsiveness by the terms of the solicitation. Haughton Elevator Division, Reliance Electric Company, 55 Comp. Gen. 1051, 1055 (1976), 76-1 CPD 294; 52 Comp. Gen. 389, 391, 392 (1972).

We have also held that unless something on the face of the bid limits, reduces or modifies the obligation of a prospective contractor to perform in accordance with the invitation, the bid must be considered responsive. 49 Comp. Gen. 553, 556 (1970). SAI unqualifiedly offered to meet all requirements for the service, which included furnishing a Senior Writer. Therefore, and for the reasons stated above, SAI's failure to submit a resume for a Senior Writer does not justify rejection of its bid for nonresponsiveness. See Electronic Associates, Inc., B-184412, February 10, 1976, 76-1 CPD 83; B-168396, February 2, 1970, modified August 18, 1970.

The contracting officer also concluded that SAI's bid was nonresponsive for failure to meet the minimum experience requirements of the IFB for a Project Coordinator and for the firm as a whole. Specifically, SAI's resume for Project Coordinator failed to demonstrate that the candidate had 3 years of progressively responsible experience in an educational or technical field related to resource management as required by the IFB. Similarly, it was not clear from SAI's bid whether SAI satisfied the requirement in the IFB that the firm must have conducted three workshops relating to natural resource management in the 3 years previous to the solicitation. Having construed these requirements as relating to responsiveness, the contracting officer did not permit SAI to furnish additional information before rejecting its bid for nonresponsiveness.

The specific minimum experience requirements in the IFB are definitive criteria of responsibility and do not relate to responsiveness. See Haughton Elevator Division, supra; Electronic Associates, Inc., supra. It is therefore our conclusion that SAI's bid should not have been rejected without a specific determination that SAI was nonresponsible. See 53 Comp. Gen. 396, 398 (1973).

However, in view of the present stage of the procurement, no recommendation is being made for corrective action. We are recommending in a separate letter to the Secretary of Agriculture that appropriate steps be taken to preclude a recurrence of the situation which gave rise to the protest.


Deputy Comptroller General
of the United States