

DECISION



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

10,804

FILE: B-194398(2)

DATE: July 20, 1979

MATTER OF: Morgan Management Systems, Inc. DLG 01551

[Protest of Contract Award Alleging Buy-In]

DIGEST:

1. Possibility of buy-in provides no basis upon which award of contract may be challenged. Rejection of proposal for too low price or inability to perform requires determination of nonresponsibility, and this Office no longer reviews affirmative determinations of responsibility absent circumstances not present here.

2. * The record showed that where protester's higher-priced proposal received less points both overall and in technical area than did awardee's proposal, award appears to be consistent with evaluation criteria which weighted cost at only 30 percent of total evaluation.

Morgan Management Systems, Inc. (Morgan), protests award of a contract to Decision Sciences Corporation (DSC) under request for proposals (RFP) SBA-7(i)-MA-79-1 issued by the Small Business Administration. The solicitation requested proposals for providing management and technical assistance services in various geographical areas to eligible individuals or enterprises.

Morgan alleges that DSC's offers to provide services in three areas were each a "buy-in" and questions whether it can deliver the required services at such low prices.

We have held that the possibility of a "buy-in" or the submission of a below-cost bid is not a proper basis upon which to challenge the validity of a contract. RKFM Products Corporation, B-190313, August 7, 1978, 78-2 CPD 94. Whether an offeror will be able to perform at its offered price involves a matter of responsibility. Thus, rejection of an offer as extremely low generally requires a determination that

the offeror is nonresponsible. Consolidated Elevator Company, B-190929, March 3, 1978, 78-1 CPD 166. Here SBA found DSC to be responsible. This Office no longer reviews protests against affirmative determinations of responsibility unless either fraud is shown on the part of the procuring officials or the solicitation contains definitive responsibility criteria which allegedly have not been met. Central Metal Products, Inc., 54 Comp. Gen. 66 (1974), 74-2 CPD 64. Neither exception is alleged in this case.

the protest
Morgan also ^{ed} questions whether its proposal received "full consideration" in view of the fact that price was established as worth only 30 percent of the evaluation. The record shows that for each of the three areas awarded to DSC, Morgan was not ranked higher than third in total score and in each instance scored considerably below DSC in the technical evaluation. Thus, the record does not establish that Morgan's proposal was not evaluated properly.

Morgan also requests that we supply it with evaluation summary sheets which the agency considers restricted. Since the evaluation sheets are SBA records, the protester must apply to that agency for release of the documents under the Freedom of Information Act (FOIA), 5 U.S.C. § 552 (1976). E-Systems, Inc., B-191346, March 20, 1979, 79-1 CPD 192.

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The protest is denied.

R. J. Ketter
Deputy Comptroller General
of the United States