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DECISION



J. Botyand  
Proc I  
THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

FILE: B-187690

DATE: February 18, 1977

MATTER OF: Space Vector Corporation

DIGEST:

Protest involving allegations that low offeror under request for proposals is not responsible contractor and is "buying in" is not for consideration since GAO no longer considers protests involving affirmative determinations of responsibility, with exceptions not applicable here, and possibility of buy-in does not require rejection of otherwise acceptable bid.

Space Vector Corporation (SVC) protests the possibility of an award to Guidance Technology Incorporated (GTI), the apparent low offeror under request for proposals (RFP) F34601-76-R-2519, issued by the Directorate of Procurement and Production, Tinker Air Force Base, Oklahoma.

The record shows that the solicitation, a request for proposals to establish a requirements contract for repair of certain aircraft gyros, was mailed on April 23, 1976. SVC submitted its responding proposal on May 24, 1976. By letter of July 19, 1976, SVC was informed that its proposal could not be considered because the Air Force's technical orders were not "sufficient to insure satisfactory repair by a firm unfamiliar with the repair requirements not prescribed by the technical orders." However, as the result of a meeting between SVC and USAF personnel, by letter of July 29, 1976, the Air Force advised SVC that it was reviewing its technical data, would amend the solicitation, and would consider SVC's proposal. Both SVC and GTI submitted proposals on October 5 and GTI was the low offeror. Thereafter, GTI underwent and successfully passed a preaward survey.

SVC protests against award to GTI and argues that it should be awarded the contract on the grounds that GTI is not a responsible contractor and appears to be "buying in" on the contract.

B-187680

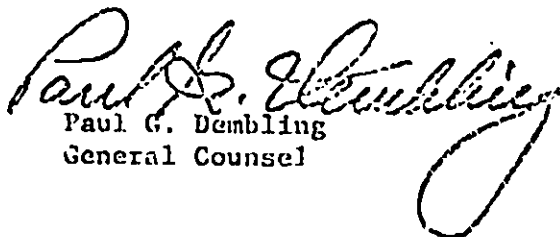
In alleging that GTI is not a responsible contractor, SVC charges that GTI has poor quality control at its plant, improperly tested a number of gyro models, failed to meet delivery schedules, and covered up and failed to correct reported deficiencies in its products. In addition, SVC alleges that GTI diverted Government property and provided incorrect financial reports to the Securities and Exchange Commission.

The contracting officer, however, made an affirmative determination that GTI was responsible based upon a preaward survey. We no longer consider protests against affirmative determination of another bidder's responsibility, unless fraud is alleged on the part of the contracting officer or the solicitation contains definitive responsibility criteria which allegedly have not been applied. See Central Metal Products, Inc., 54 Comp. Gen. 66 (1974), 74-2 CPD 64; Data Test Corporation, id. 499 (1974), 74-2 CPD 365, affirmed id. 715 (1975), 75-1 CPD 138.

Since SVC has not challenged GTI's responsibility on either of these bases, and the report submitted by the Air Force on January 7, 1977, contains no indication of fraud on the part of the contracting officer, we will not review this determination.

The second basis for SVC's protest is its allegation that GTI is "buying in." The offer GTI submitted on October 5 was much lower than its initial offer. The possibility of a buy-in, however, is not a proper basis upon which an award may be precluded. The procurement regulations do not provide for rejection of such offers and the fact that a low offeror may incur a loss at its offer price does not justify rejecting an otherwise acceptable offer. A. C. Electronics, Inc., B-185553, May 3, 1976, 76-1 CPD 295; Caltex Engineering Co., B-186525, June 2, 1976, 76-1 CPD 355.

Accordingly, the protest is not for consideration.

  
Paul G. Dembling  
General Counsel