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DECISION



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

*P. Ruggert
Proc I*

FILE: E-188192

DATE: March 24, 1977

MATTER OF: Crane Inspection and Certification Bureau, Inc.

DIGEST:

The requirement in IFB that successful bidder possess current accreditation from U.S. Department of Labor authorizing firm to perform all prescribed inspections relates to bidder's responsibility, not responsiveness, and accreditation does not have to be obtained until time for performance.

Crane Inspection and Certification Bureau, Inc. (CICB), a division of the James Comper, protests the award of a contract to the low bidder, Cacciamani Brothers, under invitation for bids (IFB) N62472-76-B-4624, issued by the Philadelphia Naval Shipyard, Philadelphia, Pennsylvania. Counsel for CICB contends that the IFB required bidders to possess accreditation by bid opening from the U.S. Department of Labor to perform all prescribed inspection, testing and repair service on cranes. Since Cacciamani did not have the necessary accreditation by the November 9, 1976, opening date, counsel contends that Cacciamani's bid is nonresponsive and that the award should be made to CICB as the low responsive bidder.

The Department of the Navy takes the position that under the provisions of the IFB, Cacciamani, as the low bidder, was not required to obtain accreditation prior to bid opening as this requirement is a matter of responsibility rather than responsiveness.

We have been advised by a representative of the Navy that the Department of Labor issued a certificate of accreditation to Cacciamani on February 16, 1977, and that award was made to that firm on February 18, 1977.

Section 4.2.1.1 of the IFB provides:

"Contractor Accreditation. The successful bidder shall possess a current accreditation from the U.S. Department of Labor authorizing him to perform all prescribed inspections, tests and certifications for all

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equipment as required in this contract for the entire contract term. During the term of the contract all required forms, such as inspection forms, certification forms and SRO's, shall be signed by the accredited Department of Labor Inspector.

"Note: Loss of U.S. Department of Labor accreditation during the term of the contract will result in termination of the contract."

This provision does not state that bidders must possess an accreditation prior to bid opening. Furthermore, the preceding section, 4.2.1, provides that the successful bidder shall submit written certification prior to award. We regard this accreditation requirement as a matter affecting responsibility, i.e., whether a firm is legally able to perform a contract, rather than as a matter of responsiveness as CIGD contends.

As a general rule, our Office does not review affirmative responsibility determinations except where, as here, the solicitation contains definitive responsibility criteria which allegedly have not been applied or where fraud is shown on the part of procuring officials. Central Metal Products, Incorporated, 34 Comp. Gen. 66 (1974), 74-2 CPD 64, and Yardney Electric Co., 54 Comp. Gen. 509 (1974), 74-2 CPD 376. This case is similar to those cases where we have held that a license requirement in a solicitation is a requirement concerning the responsibility of prospective contractors and not related to the evaluation or responsiveness of a bid. 53 Comp. Gen. 36, 38 (1973). In 46 Comp. Gen. 326 (1966) we stated that the critical time for actual compliance with a requirement concerning responsibility could be as late as the time for performance plus any lead time which may be necessary in a particular case. Therefore, Cacciamani was not required to possess the necessary accreditation from the Labor Department at the time it submitted its bid or at the time of award, but only prior to performance.

Under these circumstances, there is no legal basis to object to the award made to Cacciamani and CIGB's protest is therefore denied.


Deputy Comptroller General
of the United States