



DECISION

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

FILE: B-213128

DATE: February 27, 1984

MATTER OF: Micron Corporation

DIGEST:

1. Whether a bidder is capable of performing in accordance with the terms of the solicitation is a matter of that bidder's responsibility as a prospective contractor. Our Office does not review protests against affirmative determinations of responsibility absent circumstances not present here.
2. A solicitation requirement that the low bidder submit specified information prior to award as to its ability to supply and service items being procured relates to responsibility. GAO will not review the sufficiency and relative quality of the information submitted pursuant to such a requirement.

Micron Corporation (Micron) protests the award of a contract under solicitation No. FGE-B9-75246-N, issued by the General Services Administration (GSA).

The above solicitation was issued on March 7, 1983, with bid opening scheduled for April 7, 1983. Micrographic Services Inc. (MGSI) was the low bidder. Contract GS-005-63429 for microfiche reader printers for delivery in zones 3 and 4 (Washington, D.C., Delaware, Maryland, Pennsylvania, Virginia and West Virginia) was awarded to MGSI on September 9, 1983.

Micron alleges that MGSI is not a responsible bidder within the terms of the solicitation because MGSI, which is a dealer for Micron, cannot guarantee or evidence an uninterrupted source of supply as required by the solicitation; MGSI is dependent on Micron to finance new orders and in the past has consistently exceeded its credit limitations with Micron; MGSI cannot satisfy the requirement to install and service promptly in the area covered by the contract; and MGSI did not fulfill the terms of the previous contract with the federal government.

Clause 644 of the solicitation requires that bidders who are not manufacturers submit prior to award either a letter of commitment from a manufacturer assuring a source of supply sufficient to satisfy the government's requirements for the contract period or evidence that the offeror will have an uninterrupted source of supply from which to satisfy the government's requirements for the contract period. To satisfy these criteria MGSI submitted three letters from Micron--one dated July 29, 1980, establishing the dealer relationship; one dated March 30, 1983, assuring MGSI that Micron would support MGSI's efforts to obtain the contract for another procurement (mistakenly identified in the agency's report as the contract which is the subject of the present protest); and one dated February 12, 1982, providing similar assurance in connection with MGSI's efforts to obtain the previous year's contract. MGSI also submitted a fourth letter dated October 20, 1983, written subsequent to award, which confirmed the dealer relationship and MGSI's ability to install and service Micron products, both within and beyond its immediate geographic area.

Micron contends that the above letters, submitted by MGSI, are not sufficient to establish that MGSI will have an uninterrupted source of supply from which to satisfy the government's requirements for the contract period, or that MGSI will be able to install and service the equipment promptly in the area covered by the contract.

On the basis of three letters received prior to award, the contracting officer found MGSI to be responsible. Our Office does not review protests against affirmative determinations of 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 Connelly Containers, Inc., B-208259, August 23, 1982, 82-2 CPD 168. Fraud has not been alleged in this protest. The solicitation, however, did require bidders to submit information concerning its ability to supply and service the items being procured. MGSI furnished information of the general type called for by the solicitation. The sufficiency and relative quality of the information submitted are matters within the judgment of the contracting officer, not our Office. See Owl Resource Company, B-210094, April 29, 1983, 83-1 CPD 461. Thus, we find no basis for objecting to the contracting officer's determination that MGSI is a responsible prospective contractor.

Accordingly, the protest is denied.

for Milton J. Fowler
Comptroller General
of the United States