

DECISION

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

Hearn

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FILE: B-216545**DATE:** November 26, 1984**MATTER OF:** Technical Micronics Inc.**DIGEST:**

1. A solicitation provision stating that information concerning a bidder's proposed staff could be submitted after bid opening relates to a bidder's responsibility not to the responsiveness of the bid.
2. Protest challenging awardee's submission of information regarding its proposed staff and its ability to provide an adequate staff will not be considered since GAO does not review affirmative determinations of responsibility absent showing of possible fraud or bad faith or allegation that definitive responsibility criteria have not been applied.

Technical Micronics Inc. protests the award of a contract to Om-Tech, Inc. under invitation for bids No. DAKF10-84-B-0107 for the operation of the Army Oil Analysis Laboratory, Hunter Army Airfield, Savannah, Georgia. Technical Micronics contends that Om-Tech's bid was not responsive and that the firm is not responsible as it does not have the personnel to perform the contract. We dismiss the protest.

Specifically, Technical Micronics maintains that Om-Tech was not responsive to Section 1.2.2 of the solicitation which stated that:

"the contractor shall furnish the contracting officer or his authorized representative the names and phone numbers of the project manager and all management and supervisory personnel not later than contract award date."

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The protester contends that the awardee submitted two names under this provision, but did not have agreements with the individuals named, and falsely certified that it did.

Where, as here, a bidder has made an unqualified offer to comply with all the terms and conditions of an IFB, the bid is responsive and the bidder is legally bound to comply with those terms upon the government's acceptance of the bid. Tenavision, Inc., B-209261, Dec. 15, 1982, 82-2 CPD ¶ 533. The provision stating that information regarding the contractor's proposed staff could be submitted after bid opening but prior to award relates to a bidder's responsibility not responsiveness of a bid which is determined at bid opening. Grace Industries, Inc., B-212263.3, Feb. 22, 1984, 84-1 CPD ¶ 212. Similarly, whether the firm is actually able to obtain qualified employees concerns its capability to perform the contract and is a matter of responsibility. Our Office does not review protests concerning affirmative determinations of responsibility absent a showing of possible fraud or bad faith on the part of contracting officials or that definitive responsibility criteria in the solicitation have not been met. Grace Industries, Inc., supra. Neither is alleged here.

While Technical Micronics has requested a conference, one need not be held where the protest is not reviewable and may be dismissed under 4 C.F.R. § 21.3(g) (1984). James G. Tunison & Co., B-213394, Dec. 29, 1983, 84-1 CPD ¶ 38.

The protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
General Counsel