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DECISION



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

B-219422.2

FILE:

DATE: August 7, 1985

John C. Grimberg Co., Inc.--

MATTER OF: Reconsideration

DIGEST:

Protest against agency decision to permit correction of mistake in bid was properly dismissed for failure to include a detailed statement of the legal and factual grounds of protest where protest did not identify the mistake and the relevant facts which supported claim that correction of the bid was precluded and rejection as nonresponsive was required and where protest did not include the bid prices. Given the protester's failure to provide either a detailed statement of the factual grounds of protest or all relevant information available through reasonably diligent efforts, protest is unsupported and not for consideration on the merits.

John C. Grimberg Co., Inc. (Grimberg), requests reconsideration of our July 1, 1985, dismissal of its protest against any award to J.A. Schiebel, Inc. (Schiebel), under invitation for bids (IFB) No. N62477-85-B-0097, issued by the Naval Facilities Engineering Command (NAVFAC). We affirm the dismissal.

In its initial protest of June 28, Grimberg merely alleged that Schiebel had made a mistake in its bid, that the bid was not subject to correction and that the bid should be rejected as nonresponsive. It therefore protested the Navy's attempt to "negotiate 'a solution to this problem'" and make award to Schiebel.

By notice of July 1, however, we dismissed the protest, finding that Grimberg had not stated a basis for protest. We noted that our Bid Protest Regulations, 4 C.F.R. § 21.1(c)(4) (1985), require the protester to set forth a detailed statement of the legal and factual grounds of protest, including copies of relevant documents.

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In its July 25 request for reconsideration, Grimberg argues that its initial protest indeed stated a basis for protest. In addition, noting that the Navy made award to Schiebel on July 17, it alleges that the Navy must either have improperly allowed Schiebel to correct its bid or improperly failed to reject the bid as nonresponsive on the basis of the mistake claimed by Schiebel.

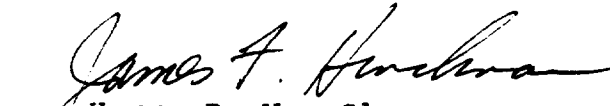
As for its failure to provide documents or additional information relevant to the protest, Grimberg explains that NAVFAC refused to provide such information before the initial protest was filed. Moreover, it notes that the Navy has continued to deny its requests for information. Accordingly, by letter of July 25, Grimberg has filed a Freedom of Information Act (FOIA), 5 U.S.C. § 552 (1982), request with NAVFAC for information pertaining to this procurement.

We recognize that even diligent prospective protesters may encounter difficulties in obtaining information and documents relevant to a claim of mistake, since such documents as another bidder's worksheets or agency analyses of such worksheets may be the subject of a claim of privilege based upon the presence of proprietary information.

However, this does not appear to be a case where the protester included in its protest all relevant information available through reasonably diligent efforts. Neither in its initial protest nor in its request for reconsideration has Grimberg identified the mistake and the relevant facts which support its claim that correction of Schiebel's bid is precluded and rejection of the bid required. Nor has Grimberg provided our Office with the bid prices received by the agency, even though these may be relevant to a finding of mistake, see Atterton Painting, Inc., B-208088, Jan. 18, 1983, 83-1 C.P.D. ¶ 60, or to a determination as to whether to permit correction. See Sam Gonzales, Inc., B-216728, Feb. 1, 1985, 85-1 C.P.D. ¶ 125. Since the Federal Acquisition Regulation, 48 C.F.R. §§ 14.402 and 14.403 (1984), generally provides for the public opening of bids and for the abstract of offers to be available for public inspection, we presume that information as to the bid prices was available to Grimberg. Moreover, we note that Grimberg's FOIA request is dated July 25, nearly a month after it filed its initial protest with our Office.

In these circumstances, Grimberg has failed to provide support for its protest. Accordingly, we will not consider it on the merits. See Alan Scott Industries, B-219096, June 20, 1985, 85-1 C.P.D. ¶ 706.

The dismissal is affirmed.


Harry R. Van Cleve
General Counsel