



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Pacific Information Management, Inc.--
Reconsideration
File: B-224506.2
Date: September 15, 1986

DIGEST

Where Small Business Administration determines that an initial proposal, submitted under a procurement set aside for small business concerns only, constructively constitutes an offer from a joint venture including large businesses based on the extent to which the offeror proposes large business subcontractors, the offeror cannot be given the opportunity to submit a revised proposal relying less on large business subcontractors since that would allow the impermissible substitution of offerors for the purpose of qualifying for the set-aside.

DECISION

Pacific Information Management, Inc. (Pacific) requests reconsideration of our decision in Pacific Information Management, Inc., B-224506, Aug. 14, 1986, 86-2 CPD ¶ ____, which found that Pacific's protest under request for proposals (RFP) No. RS-ORN-86-264, issued by the Nuclear Regulatory Commission and set aside for small business concerns only, clearly lacked merit. Pacific complained that its initial proposal improperly was excluded from the competitive range without discussions after the Small Business Administration (SBA) determined that the proposal constructively constituted an offer from a joint venture with large businesses based on the extent to which Pacific proposed to utilize large business subcontractors. Such a joint venture violated the applicable size standard for the procurement.

We held that Pacific's proposal properly was rejected without affording Pacific the opportunity to revise the proposal through discussions since applicable regulations provide that after SBA determines a concern to be other than small for a particular procurement the concern cannot become eligible for award by taking action to meet the applicable size standard. Pacific's request for reconsideration contends that the adverse size determination only applied to the initial

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proposal and did not preclude the contracting agency from giving Pacific the opportunity to submit a revised proposal that relied less on subcontracting with large businesses.

We disagree. Even if the adverse size determination applied only to the initial proposal, giving Pacific the opportunity to submit a revised proposal would be tantamount to allowing Pacific to submit an essentially new and late proposal, because for purposes of qualifying for the set-aside, a revised proposal would involve the substitution of the protester for what SBA viewed as a joint venture. See Mainstream Eng'g Co., B-211876, July 11, 1983, 83-2 CPD ¶ 76 (regarding the impermissible substitution of offerors). Such a late offer may not be considered for award. Id.

Since Pacific's request for reconsideration thus fails to show that our prior dismissal was based on any errors of fact or law, the dismissal is affirmed. See Randolph Eng'g, Inc.--Request for Reconsideration, B-221510.2, June 25, 1986, 86-1 CPD ¶ 589.

for Seymour Efron
Harry R. Van Cleve
General Counsel