



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Sun Environmental, Inc.--Reconsideration

File: B-228491.2

Date: December 3, 1987

DIGEST

Protest which, on its face, fails to state a valid basis for protest will be summarily dismissed without obtaining an agency report.

DECISION

Sun Environmental, Inc., requests that we reconsider our decision of October 29, 1987, dismissing its protest of an award to Soresi Chemical Group under invitation for bids (IFB) No. GS-11P87MKC7458, issued by the General Services Administration (GSA) for transformer removal and replacement. The basis of Sun's prior protest was that Soresi's bid was nonresponsive for its failure to meet the experience requirements listed in the IFB and that GSA improperly forwarded Soresi's bid to the Small Business Administration (SBA) for a certificate of competency (COC). We summarily dismissed the protest, without obtaining an agency report, on the basis that Sun had failed to state a valid basis for protest. Sun now argues in its request for reconsideration that we violated our Bid Protest Regulations by failing to obtain an agency report and that we failed to consider Sun's argument that Soresi's bid was nonresponsive.

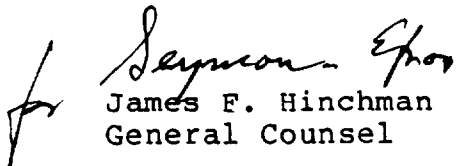
We affirm the dismissal of the prior protest.

Our Bid Protest Regulations provide that when a protest, on its face, does not state a valid basis for protest, our Office will summarily dismiss the protest without requiring the submission of an agency report. 4 C.F.R. § 21.3(f) (1987).

Regarding Sun's argument that Soresi's bid was nonresponsive for its failure to meet the experience criteria listed in the IFB, we concluded that whether Soresi satisfied the listed experience criteria was not a question of responsiveness, which concerns a bidder's unequivocal promise, as

shown on the face of the bid, to provide the exact items or services required by the IFB. Atlantic-Corey Crane Service, Inc., B-224253, Dec. 4, 1986, 86-2 C.P.D. ¶ 644. Soresi took no exception to the requirement of the IFB and, therefore, its bid was responsive. The requirement that a bidder meet special experience requirements is a definitive responsibility criterion. Warfield & Sanford, Inc., B-224465, Sept. 3, 1986, 86-2 C.P.D. ¶ 256. Where, as here, a contracting officer finds a small business to be non-responsible because it does not meet definitive responsibility criteria, under the Small Business Act, 15 U.S.C. § 637(b)(7)(A) (1982), the matter is referred to the SBA under the COC procedures and if SBA determines that the bidder is responsible that decision is conclusive on the contracting officer. Warfield & Sanford, Inc., B-224465, Sept. 3, 1986, 86-2 C.P.D. ¶ 256. Thus, the referral was proper.

Our dismissal of the protest is affirmed.


James F. Hinchman
General Counsel