



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Syllor, Inc./Ease

File: B-234803

Date: July 12, 1989

DIGEST

Allegations that agency improperly rejected bid as nonresponsive because of uncertainty as to the identity of the actual bidder and that agency did not comply with laws providing preferences for small disadvantaged businesses are denied where identical allegations raised by the same protester against the same procuring activity were recently considered and rejected and the protester has not offered any additional information to warrant a different conclusion.

DECISION

Syllor, Inc./Ease, a joint venture of Syllor, Inc. and Ease Chemical, protests the rejection of its bid under invitation for bids (IFB) No. DLA400-88-B-4824 issued by the Defense Logistics Agency.

We deny the protest.

The IFB, issued on September 20, 1988, sought bids for various quantities of isopropyl alcohol for delivery to four different locations. The solicitation contained four line items and provided for multiple awards. Seven bidders responded to the solicitation, and Syllor/Ease was found to be low on all four items.

The contracting officer found that the protester's bid was ambiguous as to the bidder's legal status and identity and rejected the bid as nonresponsive. Syllor/Ease protests that it is a valid joint venture. The protester also argues that the agency relied on the wrong information in making its determination of nonresponsiveness and complains that the agency did not provide it with an opportunity to respond to the determination.

045982/139110

The record shows that Syllor/Ease completed the "Type of Business Organization" clause by marking both the corporation and joint venture boxes. The agency states, and the protester does not dispute, that the address, telephone number, Data Universal Numbering System (DUNS) code and employer's identification number it provided is that of Syllor, Inc.

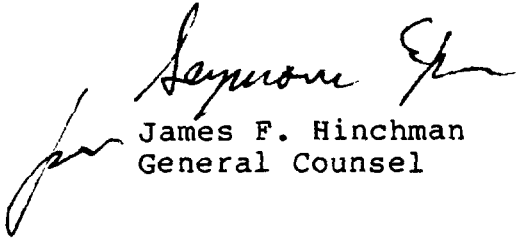
The protester's allegations regarding the validity of its joint venture arrangement, the ambiguity of its bid and regarding its right to correct the ambiguity were previously considered in two recent decisions also involving DLA procurements, where we held that the agency properly found that the contradictory information in the bid rendered the bid ambiguous. We found that since the bidding entity's identity was unclear, acceptance of the bid would not result in a binding commitment by a specific, clearly identified bidder. We also found that the agency properly did not allow the protester to correct the ambiguity, since the acceptability (responsiveness) of a bid is determined from the face of the bid at bid opening and post-bid opening explanations cannot be used to cure a nonresponsive bid. See Syllor, Inc. and Ease Chemical, B-234723 et al., June 6, 1989, 89-1 CPD ¶ ____; Syllor, Inc./Ease, B-234870, June 9, 1989, 89-1 CPD ¶ _____. The identical considerations are present here, and since the protester has not provided any additional information, we deny Syllor/Ease's protest on this ground.

Syllor/Ease also asserts, in its comments, that DLA is not complying with the laws providing preferences for small disadvantaged businesses (SDBs).^{1/} This allegation has also

^{1/} Under section 1207 of the National Defense Authorization Act for fiscal year 1987, Pub. L. 99-661, 100 Stat. 3816, 3973 (1986), and section 806 of the Department of Defense (DOD) Authorization Act for fiscal years 1988 and 1989, Pub. L. 100-180, 100 Stat. 1020, 1126 (1987), DOD is required to seek to award 5 percent of the total dollar value of its contracts to SDBs. Although the Acts do not provide for application of evaluation preferences, or any other specific means for attaining the 5 percent goal, an evaluation preference for SDBs is provided for in DOD Federal Acquisition Regulation Supplement § 219.7001 (DAC 88-7), which implements the Acts.

been considered and denied in our decision in Syllor, Inc./Ease, B-234870, supra. Accordingly, we will not reconsider it here.

The protest is denied.



James F. Hinchman
General Counsel