

J. Melody



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Bosma Machine and Tool Corporation--Request
for Reconsideration

File: B-237351.2

Date: November 28, 1989

DIGEST

Dismissal of protest is affirmed on reconsideration where protester argues that awardee would not have been found acceptable for award had technical evaluators known of awardee's allegedly extreme low price for the work; there is no requirement that evaluators have access to prices in determining proposal acceptability, and there is no basis for the contracting officer to reject an otherwise acceptable proposal from a responsible offeror on the ground that the awardee may sustain a financial loss in performing the contract.

DECISION

Bosma Machine and Tool Corporation requests reconsideration of our October 12, 1989, dismissal of its protest challenging the award of a contract to Imperial Steel Tank Company, under request for proposals (RFP) No. N00164-89-R-0132, issued by the Naval Weapons Support Center, for modification of two nuclear pressure vessels.

We affirm the dismissal.

In its October 6 protest letter, received in our Office October 11, Bosma argued that the award to Imperial was improper because the award price was too low to cover the cost of the work that would be necessary to perform the contract properly, specifically, that Imperial cannot perform "unless [it] is willing to suffer a titanic loss." We dismissed the protest on the basis that the mere fact that a firm may be "buying in" by pricing its offer below cost is not a legal basis for challenging an award. See DH Industries, B-232963, Jan. 25, 1989, 89-1 CPD ¶ 80.

In its reconsideration request, Bosma states that it intended to argue in its protest not merely that Imperial was buying in, but that Imperial's low price indicated the

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firm "did not understand the nature of the work to be done," and that the Navy "did not allow for proper technical evaluation by excluding pricing information from technical evaluators." In other words, Bosma believes that, had the evaluators been allowed to consider Imperial's technical proposal in light of the firm's low price, then, notwithstanding their determination of acceptability based on the firm's technical proposal itself, they would have concluded that Imperial could not perform at its low price, and Imperial would not have been selected for award.

We find Bosma's position unpersuasive. While an agency properly may make offered prices available for review by the technical evaluators, there is no requirement that it do so. Here, the evaluators apparently were presented only with the technical proposals, and they determined that Imperial was acceptable under the terms of the solicitation, without reference to price. The contracting officer then selected Imperial for award as the low, technically acceptable, responsible offeror. Again, we find no basis for objecting to this selection process; an agency need not reject the proposal of an otherwise acceptable, responsible offeror merely because it may have offered to perform at a "titanic loss." DH Industries, B-232963, supra.

The dismissal is affirmed.



h James F. Hinchman
General Counsel