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**Comptroller General  
of the United States**

Washington, D.C. 20548

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# Decision

**Matter of:** Hawco Manufacturing Company

**File:** B-265795

**Date:** October 26, 1995

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Kirsten B. David, Esq., for the protester.

Joe Felske for Gierke-Robinson Company, the interested party.

Craig R. Schmauder, Esq., Department of the Army, for the agency.

Aldo A. Benejam, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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## **DIGEST**

Protest that awardee's proposed subcontractor--the manufacturer of the required clamshell and rock scoop buckets--failed to meet a definitive responsibility criterion is denied where, although the subcontractor itself had been in business for a limited time, it submitted evidence showing that several of its key employees had extensive experience in the relevant field, and the contracting officer reasonably concluded from this information that the criterion had been satisfied.

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## **DECISION**

Hawco Manufacturing Company protests the award of a contract to the Gierke-Robinson Company under invitation for bids (IFB) No. DACW25-95-B-0063, issued by the Department of the Army, Corps of Engineers, for one clamshell bucket and two rock scoop buckets and related equipment, to be used by the Army in maintaining the navigation channel on the Mississippi River. Hawco contends that the manufacturer of the buckets Gierke-Robinson proposed does not meet the IFB's minimum experience requirement.

We deny the protest.

The IFB stated that "[t]he bucket unit shall be manufactured by a company specializing in manufacturing products of this type and size with a minimum of 5 years documented experience." In its apparent low bid, Gierke-Robinson identified the "Atlas Bucket Manufacturing Company" as the manufacturer of the buckets. After bid opening, Hawco informed the Army that Atlas did not meet the IFB's minimum experience requirement because Atlas was a relatively new firm established in 1993, and thus could not have 5 years of manufacturing experience as required by the IFB. In response to the Army's request for additional information,

Atlas provided to the agency a list of its key employees identified by name, job description, and years of experience. Based on this information, the contracting officer concluded that Atlas met the IFB's experience requirement and awarded the contract to Gierke-Robinson. This protest followed.

A solicitation requirement, such as the one at issue here, that a firm have a specified number of years of experience in a particular area is a definitive responsibility criterion. Topley Realty Co., Inc., 65 Comp. Gen. 510 (1986), 86-1 CPD ¶ 398. Where an allegation is made that such a criterion has not been satisfied, we review the record to ascertain whether sufficient evidence of compliance has been submitted from which the contracting officer could reasonably conclude that the definitive responsibility criterion has been met. DJ Enters., Inc. B-233410, Jan. 23, 1989, 89-1 CPD ¶ 59. The relative quality of the evidence is a matter for the judgment of the contracting officer. Tutor-Saliba Corp., Perini Corp., Buckley & Co., Inc., and O&G Indus., Inc., A Joint Venture, B-255756, Mar. 29, 1994, 94-1 CPD ¶ 223. Based on our review of the record, we see no basis to question the contracting officer's conclusion that Atlas, as the manufacturer of the required buckets, met the IFB's minimum experience requirement.

As a preliminary matter, it is undisputed that Atlas is a recently established firm with insufficient years of corporate experience to satisfy the IFB requirement. In appropriate circumstances, bidders may rely on their employees' experience to satisfy a solicitation experience requirement, see Western Roofing Serv., B-232666.3, Apr. 11, 1989, 89-1 CPD ¶ 368, and we see no reason why the experience of Atlas's employees cannot be considered to satisfy the definitive responsibility criterion here. In certain cases, an agency may require potential contractors to demonstrate purely organizational or corporate, as opposed to employee, experience. Thus, for example, in Scientific Industries, Inc., B-208307, Apr. 5, 1983, 83-1 CPD ¶ 361, we held that the agency properly could require 2 years of organizational experience given that the procurement was for aseptic management services in critical areas of a hospital, where effective overall management was particularly necessary. Here, in explaining the reason for the experience requirement in the IFB, the agency states that it was concerned about the reliability of the buckets because they are used extensively in maintenance of the navigation channel on the Mississippi River, and included the experience requirement as an aid in determining whether the bidders could produce reliable buckets. Thus, unlike in Scientific Industries, Inc., the agency was looking to evidence of experience as an indication of product reliability and was not seeking corporate or organizational experience distinct from the technical experience and expertise of the employees. Under these circumstances, the agency properly could consider the experience of Atlas's employees.

In response to the Army's question regarding its manufacturing experience, Atlas provided to the contracting agency a list of several of its key employees, identified by name and title such as the vice president of sales; the machine shop foreman;

the shop foreman; and the general manager. The information provided to the contracting officer shows that each of these individuals has substantially more than 5 years of experience in the field.

Hawco asserts that there is insufficient evidence in the record that the type of experience the Atlas employees have is the type called for by the IFB. For example, Hawco points to one individual identified by Atlas as "Vice President-Sales" to argue that experience in sales is not relevant to the actual manufacturing of buckets. However, the relevant consideration is not whether any individual employee has a particular title but whether the employee's role and experience with another firm, when viewed as a whole, is predictive of the bidder's performance under the contract. See J.D. Miles & Sons, Inc., B-251533, Apr. 7, 1993, 93-1 CPD ¶ 300. In this case, the record shows that several of Atlas's key employees had substantially in excess of 5 years experience in various aspects of bucket manufacturing, with a combined total of over 93 years of experience in the field, some of which apparently was gained while employed by Hawco.<sup>1</sup> Clearly, the term "manufacturing" as used in the IFB refers to a process, not a discrete task, which involves the successful integration of several disciplines—from purchasing raw materials, for example, to designing and processing, and ultimately to actually manufacturing the end product. Based on the information provided by Atlas, the contracting officer reasonably concluded that the Atlas employees were involved in the manufacturing process such that the awardee could rely on their experience to satisfy the IFB requirement.

The protest is denied.

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<sup>1</sup>For example, Atlas listed a shop foreman with 18-1/2 years experience; a shop foreman with 22-1/2 years experience; and a machinist with 5 years experience.