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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

40986

FILE: B-180669

DATE: July 29, 1974

MATTER OF: Hydromatics International Corporation

- DIGEST:
1. Determination that bidder could not adequately perform contemplated contract within required delivery schedule as found by preaward survey team is not, on the record, subject to GAO question.
 2. Contracting officer's determination that protester was nonresponsible on basis of unsatisfactory performance record of its key employee with previous firms was not in error since experience of a principal officer of a bidding firm may be considered in determining its responsibility. See 36 Comp. Gen. 673 (1957).

Hydromatics International Corporation (Hydromatics) protests the contracting officer's determination that it was nonresponsible under three invitation for bids (IFB's) DSA700-74-B-1136 (-1136), DSA700-74-B-1166 (-1166), and DSA700-74-B-1217 (-1217), issued by the Defense Construction Supply Center.

Since IFB's -1166 and -1217 were subsequently canceled by the procuring activity, consideration of the merits of the protester's contentions relative to these two procurements is academic. Only IFB -1136 remains for our consideration.

The contracting officer's determination of nonresponsibility was based upon the negative preaward survey conducted by the DCASD Van Nuys Survey Team. Hydromatics' current performance record was rated as unsatisfactory because its current contracts were delinquent due to quality deficiency reports. As a result, the bidder was considered to be unable to perform under the proposed award and meet the required delivery schedule.

Hydromatics was also considered unsatisfactory in management on the basis of the past performance record of one of its officers now serving as president and general manager of the firm. This officer had been instrumental in managing and executing contracts

[Protest INVOLVING
NONRESPONSIBLE BID]

- 1 -

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*Bid rejection protects
Contractor performance
Bidder responsibility*

B-180669

awarded other firms which had established unsatisfactory performance records. The record of performance level of these companies was replete with excessive delinquencies and terminations for default. As a result, it was considered that this officer, who now exercises considerable influence and leadership in the operation of Hydromatics' contracts, would have an adverse effect on the company's performance level. Based on this information the Survey Team recommended no award to Hydromatics for IFB -1136.

Hydromatics objects to the contracting officer's determination that it was nonresponsible on the ground that the contracting officer was in error in considering the prior performance record of one of its key employees in his evaluation of the firm's responsibility.

Hydromatics also questions the validity of the negative preaward recommendation completed by the DCASD Van Nuys Survey Team, since only a few weeks earlier a different survey team, the DCASD Pasadena Survey Team, completed its evaluation of the contractor's responsibility on IFB DSA700-74-B-0832 (-0832) and issued an affirmative recommendation. As a result of the Pasadena Survey Team's affirmative recommendation, Hydromatics received award for IFB -0832.

As the record indicates, the Van Nuys Survey Team issued a negative recommendation on Hydromatics' responsibility based, in part, upon its review of the unsatisfactory past performance record of a key employee. The Pasadena Survey Team, however, neglected to investigate this aspect of the contractor's history and concluded that, since the firm had only recently come into business, there would be no unsatisfactory performance record. Moreover, during the month's time between the issuance of the two recommendations, the contractor became delinquent on two contracts previously awarded to its firm. This provided further support for the Van Nuys Survey Team's negative recommendation.

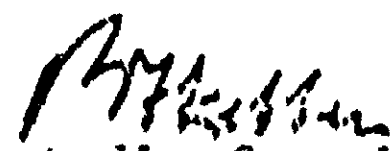
In view of the relative factors considered by each survey team in its review of the bidder's responsibility, the discrepancy between the two recommendations is understandable. We also observe in this regard that the matter of Hydromatics' responsibility was not referred to the Small Business Administration for certificate of competency proceedings because the amount of its bid (\$1,381.80) was below the dollar amount required by paragraph 1-745.4(c) of the Armed Services Procurement Regulation (\$2,500) for such referral.

BEST DOCUMENT AVAILABLE

B-180659

Our Office has consistently held that the determination of a bidder's overall responsibility is primarily a judgment for the procuring agency. 45 Comp. Gen. 4, 6 (1965). In such determination, the experience of the principal officers of a firm can be considered especially where, as here, the bidder is a new organization. 36 Comp. Gen. 673 (1957), Cf. 50 id. 360, 365 (1970). We will not overturn a negative determination of responsibility unless the evidence of record demonstrates an abuse of discretion. 51 Comp. Gen. 439, 443 (1971).

Accordingly, the protest is denied.


Deputy Comptroller General
of the United States