

7014

DECISION



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

D. Ruppert
Proc I

FILE: B-191262

DATE: July 14, 1978

MATTER OF: Johnson Controls, Inc.-Reconsideration

DIGEST:

Prior decision which upheld contracting officer's affirmative determination of responsibility is affirmed, since it has not been shown that decision was based on errors of fact or law.

Johnson Controls, Inc. (Johnson), requests reconsideration of our decision in the matter of Johnson Controls, Inc., B-191262, April 27, 1978, which denied its protest against the award of a contract to Computer Sciences Corporation (CSC) under invitation for bids (IFB) No. DACA63-77-B-0139, issued by the United States Army Engineer District, Fort Worth District, Corps of Engineers.

In the April 27, 1978, decision, we considered Johnson's contention that CSC should not have received an affirmative determination of responsibility on the grounds that the firm did not satisfy the IFB's specific and objective responsibility criteria. Among other things, we did not object to the contracting officer's affirmative determination of CSC's responsibility since the record disclosed the submission of evidence of work fulfilling a 2-year experience requirement for operation of a system using CRT (cathode ray tubes).

Johnson refers to the three of several projects which were listed by CSC as examples of its compliance with the 2-year CRT requirement and reviewed by the contracting officer prior to the affirmative determination. Our decision took note of these projects which Johnson contends do not satisfy the requirement. Johnson contends that the Black Powder Process Central System at Indiana Army Ammunition Plant is in the final stages of construction and therefore fails to meet the 2-year CRT requirement.


We do not agree with Johnson's contention. The record before our Office showed compliance. As a further

check, we have been informally advised recently by a Government representative of the Indiana Army Ammunition Plant that CSC's control system for the Black Powder Plant has been in operation since July 1975. At the request of the user, CSC's system was not shipped to the Black Powder Plant until March 1976. Nevertheless, this project is a valid example of CSC's compliance with the 2-year requirement since the system was completely operational as of July 1975. The example of CSC's system at the Black Powder plant alone is sufficient to support the contracting officer's determination that CSC meets that definitive responsibility criteria set forth in the IFB.

The protester has the burden of affirmatively proving his case. See Reliable Maintenance Services, Inc., --request for reconsideration, B-185103, May 24, 1976, 76-1 CPD 337. Johnson has not submitted any evidence in support of its view that CSC failed to meet the 2-year CRT requirement. In the absence of such evidence, we find no basis to question the contracting officer's affirmative determination of CSC's responsibility in this regard.

Our decision also took no objection to other matters concerning the contracting officer's affirmative determination of responsibility. However, the protester has given us no basis to depart from our cited precedent that we will not review that portion of the determination concerning the quality or similarity of prior work performed to that contracted for if a showing of some experience has been made.

Johnson has not established that our prior decision was erroneous in fact or law. Accordingly, the decision denying the protest is affirmed.


Deputy Comptroller General
of the United States