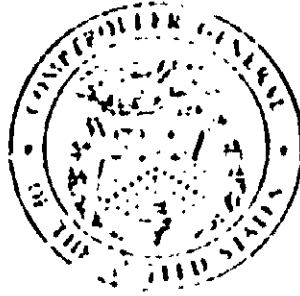


DECISION



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

7715

FILE: B-191821

DATE: September 19, 1978

MATTER OF: Gramercy Contractors, Inc.

DIGEST:

1. By listing itself or another firm for each category of work specified on subcontractor listing form, bidder submitted a responsive bid. Further, IFB requirement that certain work be performed by specialist relates to responsibility of firm listed even though bidder was required to list intended subcontractor for that category of work.
2. Question whether successful bidder's subcontractor meets solicitation's requirement that certain work be performed by specialist concerns affirmative determination of subcontractor responsibility and GAO will not review matter except in circumstances not applicable here.

Gramercy Contractors, Inc. (Gramercy) protests the award of a contract by the General Services Administration (GSA) to PJR Construction Corporation (PJR) under Project NNY09051 for construction of a photo lab. Gramercy contends that PJR's bid was nonresponsive to the IFB requirement that the "surface preparation, application and finishing" of the resinous troweled composition flooring be done by a specialist.

The IFB required each bidder to furnish with its bid the name and address of the subcontractor which would perform each of certain specified categories of work. If a category was to be performed in part by the bidder and in part by another firm, the bidder was to describe the portion of work to be performed by each. "Subcontractor" was defined in the solicitation as any " \* \* \* firm with whom the bidder proposes to enter into a subcontract for manufacturing, fabricating, installing or otherwise performing work under this contract \* \* \*."

Apart from the listing requirement the specification also required that certain categories of work be performed by specialists. The IFB defined a specialist as follows:

"10.1. The term 'Specialist' as used in the specification shall mean an individual or firm of established reputation (or, if newly organized, whose personnel have previously established a reputation in the same field), which is regularly engaged in, and which maintains a regular force of workmen skilled in either (as applicable) manufacturing or fabricating items required by the contract, installing items required by the contract, or otherwise performing work required by the contract."

The IFB form for listing subcontractors provided, in pertinent part:

"NOTE: The listing of an individual or firm (whether a subcontractor or the bidder) who does not meet the requirements of the 'Specialist' or 'Competency of Bidders' clauses in the specifications, wherever applicable, may be grounds for rejection of the bid."

The IFB specifications for flooring consists of three categories: (1) resilient flooring; (2) carpeting; and, (3) resinous troweled composition flooring. The solicitation's subcontractor listing form, however, provided for "Flooring" as a general category and PJR listed Culver Floor Covering, Inc. (Culver) as the subcontractor to perform 100 percent of the flooring work.

GSA determined from information submitted by PJR and Culver after bid opening that Culver was a specialist. Gramercy, through its own inquiries and a review

of the information supplied to GSA, argues that Culver "does not qualify as a specialist for resinous composition troweled flooring" and therefore PJR submitted a nonresponsive bid.


The requirement for listing subcontractors is designed to eliminate the practice of bid shopping and is considered a material requirement of the invitation. 43 Comp. Gen. 206 (1963). Bidders' compliance with this requirement, therefore, is treated as a matter of bid responsiveness rather than bidder responsibility. 43 Comp. Gen. supra. However, all that is required for the bid to be responsive to the listing requirement is for the bidder to list the intended subcontractor or to list itself if there is no intention to subcontract the work in question. See Wickham Contracting Company, Inc., B-179947, April 5, 1974, 74-1 CPD 173. By listing Culver, PJR was responsive to the subcontractor listing requirement. Stauffer Construction Company, Inc., B-190707, June 19, 1978, 78-1 CPD 445.

In this case, the requirement that certain work be done by specialists was stated in the specification. However, there was no requirement for bidders to list in their bids their specialist qualifications as a matter of demonstrating how it would satisfy the specialist requirement. Since a bidder was not required to furnish documentation with its bid regarding compliance with the specialist requirement except to identify its intention to perform the work with its own employees or to identify its intended subcontractor for such work, the contracting officer found it necessary, prior to award, to obtain evidence of the qualifications of the listed specialist. This determination relates to the bidder's responsibility rather than to the responsiveness of the bid in the absence of a clear requirement for submitting such material with the bid and more definitive specialist criteria in the specification. Stauffer Construction Company, Inc., supra.

We have taken the position that we will not review the contracting agency's affirmative determination of a proposed subcontractor's responsibility unless

fraud is alleged on the part of the contracting officer or the solicitation contains definitive responsibility criteria which have not been applied. Mechanical Constructors, Inc., B-189423, January 24, 1978, 78-1 CPD 60. In this regard, we note that the specialist clause provides no objective criteria which must be met by a specialist but sets forth only general work requirements. This is not sufficiently definitive to come within the exception for reviewing affirmative responsibility determinations. See Mechanical Constructors, Inc., supra; Gramercy Contractors, Inc., B-189327, November 8, 1977, 77-2 CPD 348.

Accordingly, the protest is denied.

  
Deputy Comptroller General  
of the United States