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K. Baker
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DECISION



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

FILE: B-189642

DATE: April 6, 1978

MATTER OF: Dubie-Clark Company, Patterson Pump
Division--Request for Reconsideration

DIGEST:

1. Request for reconsideration of GAO protest decision is denied where protester contends that agency's affirmative determination of bidder responsibility is erroneous. Such issues are not reviewed in the absence of fraud or a definitive responsibility criterion, neither of which have been established in this case.
2. Request for conference made on reconsideration is granted only where matter cannot be promptly resolved without a conference because GAO Bid Protest Procedures do not explicitly provide for a conference on reconsideration and because it is the purpose of those procedures to effect "prompt resolution" of reconsideration requests.

The Patterson Pump Division (Patterson) of Dubie-Clark Company has requested that we reconsider our decision denying its protest in Dubie-Clark Company, Patterson Pump Division, B-189642, February 28, 1978, 78-1 CPD 161.

Patterson asserted in its original protest that the awardee, Axel Johnson Corporation (Axel) did not comply with a solicitation provision which requested bidders to provide information concerning their prior work experience. The provision, paragraph 7 of the Invitation for Bids (IFB), entitled "Qualifications," provided in pertinent part:

"7. QUALIFICATIONS. Each bidder shall state in his bid whether he is now or ever has been engaged on any contract or other work similar to that proposed, giving the location and rating of the equipment and the year in which it was manufactured or installed. He shall also submit such other information as will tend to show his ability to prosecute vigorously the work required by these specifications."

In our prior decision, we stated that, in our opinion, the contracting officer properly accepted a list submitted by Axel, entitled "Experience Required," as responsive to the informational requirement quoted above. In any case, we also stated that we did not construe the solicitation provision as establishing a definitive requirement of bidder responsibility. A definitive responsibility requirement is considered material and must be satisfied.

Patterson reasserts in its request for reconsideration its contention that Axel did not comply with paragraph 7 of the IFB. It bases its request for reconsideration on an alleged error in our analysis of the document entitled "Experience Required," submitted by Axel. Patterson asserts that the four installations listed on that document were installations of Waukesha engines, not Axel pumps.

This Office does not review protests alleging that a competing offeror is nonresponsible unless either fraud is alleged on the part of the procuring officials or the solicitation contains definitive responsibility criteria which allegedly have not been applied. Continental Service Company, B-187700, January 25, 1977, 77-1 CPD 53; Central Metal Products, Inc., 54 Comp. Gen. 66 (1974), 74-2 CPD 64.

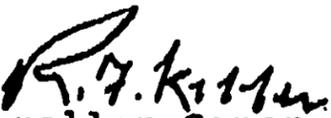
We reaffirm our prior determination that the solicitation provision involved in this case was not a definitive requirement of bidder responsibility. The provision merely requests each bidder to provide any available pertinent information as to its qualifications and prior experience so that the contracting officer can use this information in evaluating the bidder's responsibility. See Cubic Western Data, Inc., B-189578, October 7, 1977, 77-2 CPD 279; Central Metal Products, supra.

It was not a necessary requirement for an affirmative determination of Axel's responsibility that it supply with its bid information showing its experience in all areas of work required by the solicitation. Thus the fact

that Axel may not have submitted with its bid a list of its experiences in installing Axel pumps did not preclude the agency from determining, on the basis of information obtained before or after bid opening, that Axel was a responsible bidder. See Bryan L. and F.B. Standley, B-186573, July 20, 1976, 76-2 CPD 60 and Armed Services Procurement Regulation 1-905 (1976 ed.).

We note that in its request for reconsideration, Patterson requested a conference. However, our Bid Protest Procedures do not explicitly provide for conferences in this situation. See 4 C.F.R. § 20.9. Since it is the intent of the procedures to effect "prompt resolution" of reconsideration requests, we believe a request for a conference should be granted only where the matter cannot be promptly resolved without a conference. In our judgment, this is not such a case. See International Business Machines, Corp.--Reconsideration, B-187720, August 9, 1977, 77-2 CPD 97.

In view of the foregoing, our decision in Dubie-Clark Company, Patterson Pump Division, supra, is affirmed.


Acting Comptroller General
of the United States