

DECISION



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

50972

FILE: B-183645

DATE: August 4, 1975

97311

MATTER OF: Professional Carpet Services

DIGEST:

1. Specifications permitted bidders to clean rugs and carpets with dry cleaning solvent or powder, by steam process, or with synthetic detergent. Bidder offered, by asterisk after basic bid price, steam process at higher price, which was not precluded by IFB. Rather than qualifying bid, bidder was merely offering one of acceptable alternative cleaning processes at higher price. Therefore, Government could accept lower basic price for equally acceptable process.
2. Request made that decision be withheld pending resolution by Department of Labor of propriety of labor surplus certificate of eligibility issued to one of two tied low bidders in that resolution, along with size status of bidders, will impact on which bidder will receive award. There is no basis to withhold decision since protest unrelated to "tie" has been resolved and contracting agency will presumably make award in accordance with procurement regulation dealing with equal low bids.

By letters of April 11 and 21, 1975, Professional Carpet Services (Professional) protested against the award of a contract to any other firm under invitation for bids (IFB) No. GS-03-W-50019-4-10-75, issued by the General Services Administration (GSA).

The IFB, issued on March 17, 1975, called for the furnishing of normal service requirements of all departments and independent establishments, including wholly owned Government corporations, in the executive branch of the Federal Government for services and supplies for Industrial Group 721 - Industrial Class 7217 for cleaning, alteration, repair and installation of rugs and carpets in 19 installation areas. This procurement was set aside for small business except for areas 1, 2, 3, 5, 6, 7 and 8 in Bid Schedules B and C.

Professional alleged that six of the bidders who responded to the IFB were not eligible to receive award for the following reasons:

- "1) Gemini Services, Inc. - Group A. Submitted two prices on items included in specifications requesting a single price.
- 2) Afghan Carpet Company - Group C. Bid on water soluble adhesive. Specifications require that carpet manufacturer's recommended adhesive or comparable be used. The majority of Group C carpet manufacturers caution against water soluble adhesives. This is significant, for the adhesive recommended by the manufacturer is much more expensive.
- 3) Jones Bros. Janitorial, L. G. Black and Custom Carpets submitted unsigned bids.
- 4) Diener's Carpet Service - I requested a size standard ruling on this company as they are representing themselves as small business. * * * This is quite obviously a misrepresentation."

Regarding Professional's allegation that Gemini Services, Inc. (Gemini), submitted two prices on items where the specifications requested a single price, under Group A of the schedule on page 28 of the IFB, Gemini placed asterisks next to its bids of "77.5%" in the block entitled "Deduct from Price Schedule" for areas 2 through 9. At the bottom of the page, the asterisks are explained as "rotor extraction, alternate deep steam extraction - "56.25%." We note that paragraph 25b(2) of the Special Provisions, page 18, states, in pertinent part, that "* * * Rugs or carpets shall be cleaned with a Dry Cleaning Solvent or Powder or by the steam process or cleaned and shampooed with a completely synthetic detergent * * *." This special provision clearly afforded bidders the option of using one or more of several cleaning processes. Therefore, Gemini, rather than qualifying its bid, was merely offering one of the acceptable alternate processes at a higher price. No provision in the IFB precluded the manner of bidding utilized by Gemini. We know of no basis to object to the Government's acceptance of the lower price for an equally acceptable process under the IFB. See 33 Comp. Gen. 499 (1954); and 46 id. 807 (1967); and 50 id. 140 (1970).

Concerning Professional's contention that Afghan Carpet Cleaners (Afghan) bid on a water soluble adhesive contrary to specification

requirements, the specifications, at paragraph 25b, page 22, require that the carpet manufacturer's recommended adhesive or equal shall be utilized. Afghan, under items 14 through 16 of Group C, indicated that the manufacturer's name was "Henry Adhesive" and the type of adhesive was "None Water Soluble." Consequently, we must conclude that Afghan's bid offered to conform to the specification requirements for the use of nonwater soluble adhesive.

Regarding Professional's contention that three bidders submitted unsigned bids, copies of the original bids submitted by Jones Brothers Janitorial, L. G. Black - E.C.C. and Custom Rug Cleaners were furnished to our Office by GSA. Since no bid was received from "Custom Carpets," GSA assumes that Professional was referring to "Custom Rug Cleaners." The original bids of these firms were all signed.

In view of the foregoing, Professional's protest against the eligibility of the bids of Gemini, Afghan, and the above bidders who submitted signed bids is denied.

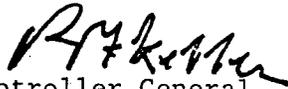
Concerning Professional's allegation that Diener's, Inc. (Diener's), is not a small business, the Small Business Administration (SBA) by letter of June 4, 1975, advised GSA that Diener's was not a small business for purposes of this procurement.

We note that Diener's submitted a bid for areas 1, 2, 3, 5, 6, 7 and 8 in Bid Schedule Groups B and C, which, as indicated above, were not set aside for small business. GSA advises that, for areas 1, 2, 3, 5 and 6, Diener's is tied with Professional for apparent low bidder since Capital Carpet Sales and Service, Inc., the low bidder for those areas, has been determined to be nonresponsible by GSA and has been denied a Certificate of Competency by SBA. Consequently, according to GSA, the size status and labor surplus area concern preference of the two firms is important to its decision as to which firm is to receive the award for those areas. See section 1-2.407-6 of the Federal Procurement Regulations (1964 ed. amend. 85) dealing with equal low bids. In this regard, the record discloses that Professional was issued a certificate of eligibility with a first and second preference on May 28, 1975, and Diener's was issued a certificate of eligibility with a first preference on April 23, 1975. Counsel for Diener's, in its letter of June 11, 1975, to our Office, questioned the propriety of the certificate of eligibility issued to Professional,

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and advised that the issue has been raised with the Department of Labor, recognizing that our Office does not have jurisdiction over the question of Professional's eligibility for a preference certification. See 51 Comp. Gen. 335 (1971). Counsel requests that our decision be withheld until the Department of Labor has decided the matter.

We see no basis for our Office to withhold our decision since the protest of Professional has been resolved and GSA will presumably make the award in accordance with above-cited procurement regulation dealing with equal low bids.


Deputy Comptroller General
of the United States