



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

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B-178895(1)

October 10, 1973

Katz and Fink
Attorneys at Law
331. Montgomery Center Building
8630 Fenton Street
Silver Spring, Maryland 20910

Attention: Jules Fink, Esq.

Gentlemen:

We refer to your letter dated June 11, 1973, and subsequent correspondence on behalf of Bic Disposal Corporation, Inc. (Bic), protesting against the award of a contract for garbage and refuse collection to the Associated Refuse and Compaction Service (Associated) under invitation for bids No. F49642-73-B-0373, issued at Andrews Air Force Base (AFB), Maryland.

Bids received on the solicitation were opened on June 8, 1973. Associated submitted the apparent low bid for Andrews AFB and Bolling AFB. Immediately following bid opening, representatives of Bic (the incumbent contractor at Andrews AFB) lodged a protest with this Office against the low bidder. Prior to our decision, because of the urgent need for uninterrupted service, award was made to Associated on June 26, 1973, pursuant to Armed Services Procurement Regulation (ASPR) 2-107.8(b)(3).

The basis for the protest is your contention that Associated was not a responsible or qualified bidder under the terms and conditions of the solicitation. Your allegations in support of this position can be summarized as follows: (1) Associated had been in business about 90 days and never performed on a contract of this magnitude; (2) it had no experience in the regular and systematic handling of refuse as required under the solicitation; (3) the company lacked the minimum personnel, equipment, and facilities to perform the contract; (4) it did not have suitable financing to obtain the necessary equipment; and (5) an expert evaluation made for your company concluded that Associated lacked the financial and operational capability to perform the three contracts on which it had been low bidder within a 3-week period.

With respect to your first two allegations of nonresponsibility, our Office has held that the mere fact that a corporation bidding on a

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Government contract is newly formed should not detract from the responsibility of the corporation where its management was experienced in similar projects, which is the case here. See 45 Comp. Gen. 4 (1965) and 38 id. 572 (1959). The record shows that Associated's president and vice-president were experienced salesmen and managerial personnel in refuse work and contains a list of the firm's current and past customers.

Regarding its capability to perform, the contracting officer determined that Associated was a responsible bidder in accordance with the standards set forth under ASPR paragraphs 1-903.1, 1-903.2, and 1-903.4. His report documents in detail that prior to award Associated had adequate credit and the required equipment at its disposal or on order to perform the contract. Finally, notwithstanding its other contractual commitments, the contracting officer made the determination (based on his investigation) that Associated could perform the contract. In this regard, our inquiries 2 months after the award revealed that Associated has been performing satisfactorily.

Our Office has consistently taken the position that questions concerning the qualifications of a prospective contractor are primarily for resolution by the administrative officers concerned, and in the absence of a showing of bad faith or lack of any reasonable basis for the determination that the prospective contractor is responsible, we will not object to any agency's determination of responsibility. 49 Comp. Gen. 553 (1970). The contracting officer's report to our Office (a copy of which was previously furnished to you) responded to each allegation of your protest. After careful review of the record, we do not find that the agency exercised bad faith or lacked a reasonable basis for making a determination that Associated was a responsible bidder.

For the foregoing reasons, your protest on behalf of Bic Disposal Corporation, Inc., is denied.

Sincerely yours,

Paul G. Dambling

For the Comptroller General
of the United States