

DOCUMENT RESUME

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[Cancellation of IFB and Resolicitation]. B-188179. June 28, 1977. 3 pp.

Decision re: Suburban Industrial Maintenance Corp.; by Robert F. Keller, Deputy Comptroller General.

Issue Area: Federal Procurement of Goods and Services (1900).

Contact: Office of the General Counsel: Procurement Law II.

Budget Function: National Defense: Department of Defense - Procurement & Contracts (058).

Organization Concerned: Department of the Army: Aberdeen Proving Ground, MD.

Authority: B-181414 (1974). B-186503 (1976). B-186577 (1976). B-188341 (1977). 55 Comp. Gen. 546. A.S.P.R. 2-404.1.

Cancellation of a solicitation for janitorial services because of ambiguity in specifications and the subsequent resolicitation were protested. The cancellation was not justified, since the ambiguity was obvious from the face of the bid and readily corrected. The cancelled solicitation should be reinstated, and bids which have expired may be revived. (RRS)

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DECISION



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

FILE: B-188179

DATE: June 28, 1977

MATTER OF: Suburban Industrial Maintenance Company

DIGEST:

Canceled IFB should be reinstated where agency is unable to show cogent reason for cancelling IFB since mistake caused by ambiguity in original IFB was obvious from face of bid and readily corrected. Bids which have expired because of cancellation of IFB may be revived upon its reinstatement.

Suburban Industrial Maintenance Company (Suburban) protests the cancellation of IFB No. DAA05-77-B-0005 and the resolicitation of the requirement by the Department of the Army, Aberdeen Proving Ground (Army).

The IFB, which was issued on December 6, 1976 as a total small business set-aside, originally called for bids on nine line items of janitorial services for buildings at Aberdeen. Because of funding problems it was determined that bids should be solicited on two bases: (1) full performance in accordance with the original specifications, and (2) reduced service in accordance with an addendum to the specifications. Accordingly, Amendment No. 0001 was issued on December 17 which included, among other things, the alternate specification and provided that award would either be on the basis of the standard specification or the alternate specification. Subsequent to the issuance of Amendment No. 0001, the agency determined that an ambiguity existed in that the amended specification referred to reduced services for Schedule A-2 (item 0001AC of the 10 items on the revised bid schedule) whereas the revised bid schedule only provided for reduced services for Schedule A (item 0001AB on the revised bid schedule). Therefore Amendment No. 0002 was issued on January 3 extending the bid opening date to January 10 and instructing bidders to "Delete Schedule A-2 wherever it appears in the attachment."

During the evaluation of the 31 bids received the Army discovered that 16 bidders, including Suburban, had apparently

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been confused, as their bid prices for items 0001AA (Full Service) and 0001AB (Reduced Service) were reversed. A higher price was bid on the Reduced Service in each case. Accordingly, letters requesting bid confirmation were sent to those bidders suspected of having made this error. Twelve of these bidders, including Suburban, requested that their prices be reversed while the lowest bidder requested that it be allowed to withdraw its bid because of another error. After a further review of the procurement the Army determined on February 3 that in view of the ambiguities which still apparently existed in the amended IFB the solicitation should be canceled and the request resolicited.

On January 14, Suburban protested award to any other bidder under the initial IFB on the basis that the five lowest bidders under the solicitation were nonresponsive in that they all reversed their prices for items 0001AA and 0002AB and offered unrealistically low prices. Suburban also contended that one of the five, National Storage Systems (National), was a large business and ineligible for award. Moreover, upon being informed of the cancellation of the IFB, Suburban protested this action, stating that the original IFB clearly set forth the Army's requirements. Suburban argues to allow cancellation would be contrary to the "basic tenets of competitive bidding" and result in an auction.

We agree with Suburban that the cancellation was not justified. The Armed Services Procurement Regulation (ASPR) sets forth guidelines governing preaward cancellations of invitations for bids. ASPR § 2-404.1 (1976 ed.) provides in pertinent part:

"(a) The preservation of the integrity of the competitive bid system dictates that after bids have been opened, award must be made to that responsible bidder who submitted the lowest responsive bid, unless there is a compelling reason to reject all bids, and cancel the invitation * * *."

In our opinion the agency has failed to show that compelling reasons exist to justify the cancellation of the subject IFB. It is clear that many bidders were confused by the IFB and reversed their bid prices for the line items representing full service and reduced service. However, this mistake was obvious from the face of the bid and readily corrected. The agency has not contended nor has any bidder complained that the IFB contained any

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other defects. Although the record indicates that five bids were determined to be nonresponsive and that the five lowest bid prices might be considered unrealistically low no attempt has been made to relate these factors to any alleged defect in the IFB.

Our Office has sanctioned the reinstatement of a canceled IFB in the past when to do so would work no prejudice on the rights of others and would promote the integrity of the competitive bidding system. Spickard Enterprises, Inc.; Contrell Engineering Corporation, B-181414, August 26, 1974, 74-2 CPD 121. The agency insists that the reinstatement of the canceled IFB would cause it to encounter administrative problems in that all of the bids but Suburban's may have expired. We do not see this as an impediment to reinstatement. In this connection, we have held that an expired bid may be revived where the bidder gains no unfair competitive advantage. See Guy F. Atkinson Company, The Arundel Corporation, Gordon H. Bail, Inc. and H. D. Zachry Company (a Joint Venture), 55 Comp. Gen. 546, 75-2 CPD 378 (1975) and cases cited therein. Here, we do not think it would be unfair to allow bids which have expired because of the cancellation of the IFB to be revived upon its reinstatement.

Suburban's contentions regarding the small business size status of National under the original IFB and the alleged unreasonably low prices bid under that IFB do not affect our determination as we have often held that both are matters which are not for our review. See Handi-John; Mobil Johnny of Albany, Inc., B-186503; B-186577, July 2, 1976, 76-2 CPD 7, regarding small business status and Dependable Janitorial Service and Supply, B-188341, February 23, 1977, regarding low bid prices. Accordingly, we recommend the original IFB, as amended be reinstated and that award be made to the firm determined to be the low responsive, responsible bidder under that IFB.


Deputy Comptroller General
of the United States