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DECISION



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

FILE: B-196239

DATE: February 29, 1980

MATTER OF: J and J Maintenance, DLG-03996
Incorporated

DIGEST:

[Protest Involving]

Compelling reason exists for canceling IFB] and resoliciting bids for custodial services where bidding instructions were confusing in that bid schedules for basic and option years failed to include line item and bid space for one building included in specifications, possibly resulting in failure of bidders, including low bidder, to submit bid on building.

J and J Maintenance, Incorporated, protests the cancellation, after bid opening, of invitation for bids (IFB) No. F41685-79-B-0006, issued by the Department of the Air Force, for custodial services at Laughlin Air Force Base, Texas. For the following reasons, we believe the Air Force acted properly and that therefore the protest is without merit. DLG-03995

The solicitation invited bids on a firm-fixed-price basis for a period of one year with priced options for two additional one-year periods and provided that bids would be evaluated for purposes of award by adding the total price for both option periods to the price for the basic period. The IFB's bidding schedule required separate unit prices for each building or area to receive custodial service, and by the terms of the IFB's "Award" clause, bidders were cautioned to bid all unit prices or face bid rejection for being nonresponsive. Amendment No. 2 to the IFB added building 237 to the specifications and drawings, but failed to provide a revised bidding schedule with a line item and space to enter a unit price for that building. Additionally, Amendment No. 5, which included bidding

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schedules for the two option years, did not provide line items or bid spaces for building 237.

With regard to the IFB's requirement that all unit prices be bid, in particular building 237, the Air Force assessed the five bids it received as follows:

"(a) One bid was clearly nonresponsive for failure to bid unit prices for any item and for failure to provide a bid bond.

(b) The low bidder and one other bidder excluded building 237 in all years.

(c) The incumbent contractor, J and J Maintenance, Inc., included building 237 in all years * * *.

(d) One other bidder included building 237 in the basic year and not the option years."

Faced with this assessment, the contracting officer determined that the IFB contained inadequate and ambiguous specifications and that the issuance of amendments caused confusion for bidders as evidenced by the varied bid pattern. Consequently, the Air Force canceled the IFB.

In essence, J and J submits that the IFB as amended was not ambiguous or confusing and that each bidder that failed to submit a schedule price for building 237 for the basic year and for both option years submitted an unambiguous, nonresponsive bid, leaving J and J as the only responsive bidder. Moreover, J and J contends that the cancellation and readvertisement after exposure of its bid would have an obvious prejudicial effect on the competitive bidding system.

We recognize that contracting officers have broad discretionary authority to reject all bids and cancel an IFB. Scott Graphics, Inc., 54 Comp. Gen. 973 (1975), 75-1 CPD 302. However, because of the potential adverse impact on the competitive bidding system of canceling

an IFB after bid prices have been exposed, contracting officers, in the exercise of their discretionary authority, must find that a cogent and compelling reason exists that warrants cancellation. Spikard Enterprises, Inc., et al., 54 Comp. Gen. 145 (1974), 74-2 CPD 121; Engineering Research, Inc., 56 Comp. Gen. 364 (1977), 77-1 CPD 106; Scott Graphics, supra. Although not all situations involving inadequate specifications warrant cancellation after bid opening, see GAF Corporation; Minnesota Mining and Manufacturing Company, 53 Comp. Gen. 586 (1974), 74-1 CPD 68, generally the use of inadequate or deficient specifications provides a sufficient basis for IFB cancellation. Defense Acquisition Regulation § 2-404.1(b) (1976 ed.); Revere Supply Co., Inc., B-187154, January 12, 1977, 77-1 CPD 21; Empire Painting Company, Inc., B-187688, February 17, 1977, 77-1 CPD 118.

A decision on point here is Kleen-Rite Janitorial Services, Inc., et al., B-180345, April 23, 1974, 74-1 CPD 210, where we upheld the agency determination that a compelling reason existed for the cancellation, after exposure of bids, of an IFB for custodial services. There we agreed with the agency that the bidding instructions were ambiguous and may have resulted in the failure of a number of bidders, including the two lowest bidders, to bid on certain required items. In that case, we also held that the bid schedule's lack of a space for insertion of a bid price for a particular item was a cause of bidder confusion. Id.

In the instant situation, the Air Force felt that it could not proceed with award, because it would be unfair to declare nonresponsive bids from those who failed to bid on all building prices when the bidding schedule did not provide a space for bidding building 237 in the basic or option years. Furthermore, with regard to the two option year periods there was confusion within the Air Force concerning the uncertain future of building 237. Consequently, it is not clear from the record whether the Air Force actually desired a bid on building 237 for the option periods.


Confusion due to the incomplete bidding schedule is evidenced in an affidavit submitted by a J and J official in which she admits awareness of bidding schedule omissions and that she telephoned the Air Force contracting office for instructions. The affidavit states:

"I asked [an Air Force contracting official] if building 237 was to be itemized on the option year schedules. She then told me most definitely 'yes.' I then asked her if she was going to notify the other bidders of this omission as this would make a difference in my bid price if I was the only one who included it. She then said she would take care of it."

While the Air Force questions the accuracy of this affidavit, the document does demonstrate clearly that confusion regarding the IFB was shared by the protester, which is now arguing the contradictory position that the written IFB, as amended, was clear and unambiguous.

We believe that the absence of a line item and bidding space for building 237 in the basic and option year bid schedules may have confused some of the bidders and that the contracting officer did not abuse his discretion in finding a compelling reason to cancel this solicitation. See Kleen Rite, supra; Truland Corporation, B-190242, March 8, 1978, 78-1 CPD 183. Therefore, we find no basis to object to the Air Force's determination to cancel the IFB and resolicit bids under a solicitation which provides clear and unambiguous information to the bidders.

The protest is denied.



For the Comptroller General
of the United States