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DECISION



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

FILE: B-208279

DATE: March 29, 1983

MATTER OF: Evans Engine and Equipment Co., Inc.

DIGEST:

Cancellation of a solicitation by grantee because erroneous oral advice was given to one of the bidders was proper exercise of discretion where grantee determined that erroneous advice precluded effective competition.

Evans Engine and Equipment Co., Inc. complains of the rejection of all bids received for a front end loader under a solicitation issued by the City and Borough of Juneau, Alaska and Juneau's readvertisement of the requirement. This procurement was partially financed by a grant from the Federal Aviation Administration (FAA). Evans, the low bidder, contends that Juneau rejected all bids and readvertised the requirement without any change in the specifications, because Evans did not offer the brand of front end loader the grantee wanted. We have no reason to object to the actions taken by Juneau or FAA's concurrence with those actions and deny the complaint.

On March 1, 1982, Juneau solicited bids for a motor grader, jet broom and front end loader. At the April 14 bid opening, Juneau received six bids for the front end loader and two each for the motor grader and the jet broom. The grantee subsequently discovered that before the opening of bids, its purchasing agent had erroneously advised one of the bidders--N.C. Machinery Company--that a 5 percent evaluation preference would be given local bidders. Had this preference been applied, N.C., a local firm, would have been the low bidder on this item. Otherwise Evans would be low. The grantee determined that since all bidders were not given the same information, it would be unfair to award a contract for the front end loader under this solicitation and it recommended to the FAA that all of the bids for this item be

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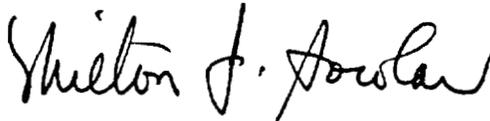
rejected. On May 25 FAA concurred in this recommendation. Since this problem did not affect the outcome of the bidding on the jet broom and motor grader, contracts for these items were awarded.

Juneau issued a new solicitation for the front end loader. Six bids, including one from Evans, were opened on July 26, but this time N.C. was the apparent low bidder, submitting a bid approximately \$13,000 less than the low bid under the initial solicitation.

FAA states that Juneau's cancellation of the original solicitation was a proper exercise of its discretion under Section 11b(2)(e) of Attachment O to Office of Management and Budget Circular A-102, which governs grantee procurements and which provides that "[a]ny or all bids may be rejected when there are sound documented business reasons in the best interest of the program." We agree with FAA.

The standard established in Attachment O constitutes the sole measure of the propriety of the cancellation of this solicitation, Dillingham Construction Co., Inc., B-205588, May 6, 1982, 82-1 CPD 432, and we believe that under the circumstances the grantee had sound business reasons for canceling the portion of the solicitation pertaining to front end loaders. N.C. was given erroneous oral advice that a 5 percent evaluation factor favoring local firms would be applied prior to submitting its bid. It appears that N.C. had reason to rely on the advice as such a preference does apply to the grantee's procurements which involve only local funds. Consequently, N.C. was not competing on the same basis as the other bidders and in fact we note that N.C.'s bid was about 5 percent above the protester's low bid. Further, the complainant has not introduced any evidence to establish that Juneau's decision to cancel and readvertise was based on its desire to contract with a firm offering a different brand than that offered by Evans.

The complaint is denied.

for 
Comptroller General
of the United States