

DECISION

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

FILE: B-208799

DATE: May 9, 1983

MATTER OF: Don Brandenburg

DIGEST:

1. Agency may accept a proposal for the lease of office space which offers only weekly janitorial service under a solicitation which calls for daily janitorial service when the solicitation also permits deviations from requirements by providing that evaluation of the rent price will be adjusted for any specification item required but not offered by the offeror.
2. Where small lease procedures are utilized and award is to be made in very brief period of time, contracting officer's basing his estimate of the cost of cleaning service on an informal survey of area lessors appears to be reasonable and is not shown to be inappropriate by protester's statement, unsupported by any evidence, that amount was inadequate.
3. Protester was not treated unfairly by contracting officer who did not permit protester to submit revised offer since solicitation for small lease award did not contemplate submission of revised proposals.

Don Brandenburg protests the award of a lease for office space to the E-Town Shopping Center by the General Services Administration (GSA) under Solicitation for Offers RKY82519. The protester contends that his proposal to provide office space in Elizabethtown, Kentucky, was the only proposal submitted that satisfied all requirements of the solicitation and that he should have been awarded the lease. Brandenburg further contends that the 2 days provided by the solicitation for the submission of offers was insufficient. In addition, Brandenburg complains about certain adjustments made in the evaluation of proposals and about the contracting officer's refusal to permit Brandenburg to revise his offer.

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We deny the protest.

The solicitation was issued on August 10, 1982 for the lease of approximately 600 square feet of office space for a term beginning September 1, 1982 and ending July 31, 1987. GSA issued the solicitation pursuant to its small lease procedures set forth in a July 2, 1982 letter from GSA's Commissioner of the Public Buildings Service to its Regional Administrators. GSA established the small lease procedures to accelerate the process for leasing up to 10,000 square feet of office space. The procedure includes the use of a standard specification package along with shortened time frames for agency market surveys and a compressed solicitation and evaluation scheme. Consequently, the solicitation called for proposals to be submitted by August 12 and contemplated award by August 13.

The solicitation provided that the lessor should provide janitorial services on a daily basis. It also specified that the lessor need not include all utilities in its rent so long as those utilities not included were identified in the proposal. Finally, the solicitation, in paragraph D2 entitled "NEGOTIATION AND DETERMINATION OF LOW OFFEROR," stated that:

"Price evaluation will be made on the basis of the annual per square foot cost, * * * plus the annualized cost of any items specified in these specifications which are not included in the rental. * * *"

The agency received three offers. Brandenburg's offer included daily janitorial service but not utilities. The Shopping Center's offer, on the other hand, included utilities but provided for only weekly janitorial services. The other offeror's proposed rent was higher than that proposed in these two offers and thus is not relevant to this protest.

In evaluating the Shopping Center's offer, the contracting officer added \$.56 per square foot to the yearly cost to reflect the cost of daily janitorial services. This resulted in an evaluated cost of \$9.69 per square foot. The contracting officer added \$1.50 per

square foot to Brandenburg's yearly cost to reflect the cost of utilities and \$.12 per square foot because Brandenburg's space would not be ready for occupancy by September 1. This resulted in an evaluated cost of \$10.02 per square foot. The award was made to the Shopping Center as it was evaluated as the low offeror.

Brandenburg's contention regarding the proposal preparation period is untimely since it concerns an alleged impropriety apparent from the face of the solicitation, Data Dynamics, Inc., B-204937, November 9, 1981, 81-2 CPD 396, but was not filed by the closing date for receipt of initial proposals, as required by our Bid Protest Procedures, 4 C.F.R. § 21.2(b)(1) (1983). In any event, it is not clear how the short response period prejudiced Brandenburg--he submitted a proposal, and has not indicated how he was adversely affected by the permitted response time.

In asserting that his proposal should have been accepted, and that the Shopping Center's should have been rejected because it did not offer the required daily janitorial services, the protester refers to paragraph B12 of the solicitation. Brandenburg says that this provision requires GSA to give first consideration only to those proposals which fully meet solicitation requirements, and that his was the only such proposal. Paragraph B12, however, deals only with providing access to the physically handicapped, and the statement upon which Brandenburg relies refers only to proposals which meet the requirements of GSA's handicapped Accessibility Standard. Paragraph B12 has nothing to do with meeting other specification requirements.

Under the provisions of the solicitation, we believe GSA could properly accept a proposal that did not offer daily janitorial service. It is true, as Brandenburg argues, that unlike the section on utilities which indicated that utilities could either be provided by the lessor or the Government, the solicitation simply required daily janitorial service. Nevertheless, paragraph D5, concerning price evaluation, contemplated an adjustment for "any items specified in these specifications which are not included in the rental." This clause, by its terms, encompasses all specification items for which the Government would not be paying in the proffered rental charge. Obviously daily janitorial services is such an item. Consequently, we

think the contracting officer's actions in accepting the Shopping Center's proposal and evaluating it in light of the janitorial service offered was consistent with the provisions of the solicitation. Therefore, we find no basis to object to the acceptance of the Shopping Center's proposal on this ground. By separate letter to the Administrator of General Services, however, we are suggesting that future solicitations indicate explicitly which specification requirements must be met and which ones offerors may choose not to meet and instead have an evaluation factor applied.

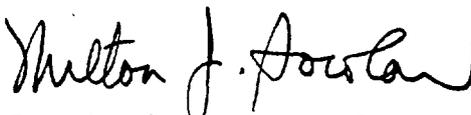
As far as the amount used by the contracting officer to adjust the Shopping Center's rental is concerned, the contracting officer indicates that the \$.56 per square foot figure was developed by him after he contacted several area lessors concerning their cleaning costs. That figure does not represent the total cost of all janitorial services, but only the cost of increasing the weekly service offered by the Shopping Center to meet the required daily cleaning needs. Brandenburg simply states that the \$.56 is not an adequate amount and that the contracting officer should have used a higher figure than \$.56 per square foot to adjust the Shopping Center's rent to cover daily janitorial service, but does not offer any evidence indicating that the figure is substantially erroneous. Considering the inexact nature of Government estimates and the limited time available to the contracting officer under this relatively small procurement, we believe that the contracting officer acted reasonably in basing his adjustment estimate on an informal survey of local lessors. See Lashcon, Inc., B-201833, June 9, 1981, 81-1 CPD 469.

We also believe that under these circumstances the contracting officer acted properly by not permitting Brandenburg to amend its proposal to include only weekly janitorial service. As indicated above, the method of evaluation used by the contracting officer was consistent with the terms of the solicitation and the submission of formal, revised proposals was neither anticipated nor permitted. All that happened here is that both Brandenburg

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and the Shopping Center proposed different, albeit acceptable, methods of meeting requirements. We see nothing unfair about the contracting officer's refusal to permit the protester to change its offer.

The protest is denied.

for 
Comptroller General
of the United States