

DECISION

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

FILE: B-220141 **DATE:** November 12, 1985
MATTER OF: Crown Laundry and Cleaners, Inc.

DIGEST:

A protester challenging the government's estimates of the costs to be added to bids for evaluation purposes, in order to equalize the competition between bids for laundry services to be performed in GOCO or COCO facilities, is not an interested party where the protester would not be in line for award even if the bids had been evaluated using the costs the protester contends reflect the government's true costs.

Crown Laundry and Cleaners, Inc. protests the terms of invitation for bids (IFB) No. DABT01-85-B-5001, issued by the Department of the Army for laundry services at Fort Rucker, Alabama. We dismiss the protest.

The solicitation invited bids based either on providing the services in government-owned, contractor-operated (GOCO) facilities or in a contractor-owned, contractor-operated (COCO) facility. Crown's bid was the only one based on use of COCO facilities and was the third lowest of six bids received. The low bid was submitted by Robertson-Penn, Inc.

Crown contends that the solicitation understates the costs the government will incur if award is made on a GOCO basis, which are to be added to GOCO bid prices for evaluation purposes, and that the costs to be added to COCO bids are overstated. This, Crown argues, unduly favors bids based on using GOCO facilities.

We dismiss the protest because Crown is not an "interested party" within the meaning of our Bid Protest Regulations, 4 C.F.R. § 21.0(a) (1985). A party is not considered to be interested and entitled to have its protest resolved on the merits when it would not be in line for award even if we sustained its protest. Unico, Inc., B-217135, Mar. 8, 1985, 85-1 CPD ¶ 287.

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Crown contends that the costs added to the GOCO bids were understated by \$214,405.00 and the costs added to the COCO bid were overstated by \$42,118.00. If we assume that Crown is correct in both cases and revise the evaluated bid prices of Robertson-Penn and Crown accordingly, Crown would still not be entitled to the award.^{1/} The addition of \$214,405.00 to Robertson-Penn's evaluated bid price of \$1,427,245.59 results in a total of \$1,641,650.59. The subtraction of \$42,118.00 from Crown's evaluated bid price of \$1,852,663.19 leaves a total of \$1,810,545.19, which is higher by \$168,894.60 than Robertson-Penn's price as revised above.

We recognize Crown's assertion that the amount of the adjustments it insists should have been made to GOCO bids does not include some utility costs that Crown believes are underestimated. Specifically, Crown questions the Army's estimates of steam and electricity costs and asserts that it appears that the water and sewer usage amounts do not include personnel usage of water for drinking, washing and toilets. Crown contends, however, that it cannot confirm its belief that the costs were understated and cannot calculate the effect of these omissions because the Army has provided information that is inadequate for such a determination. Crown requested information under the Freedom of Information Act (FOIA), 5 U.S.C. § 552 (1982), but argues that the Army's response is still unsatisfactory. We have held, however, that a protester's burden of proving its case is not affected by the alleged failure of an agency to disclose information under FOIA. Newport Offshore, Ltd.--Reconsideration, B-219031.3, July 12, 1985, 85-2 CPD ¶ 48. Since Crown has provided no support for its contention that the utility cost estimates are understated,^{2/} we have no basis for concluding that any increase in utility costs would result in Crown replacing Robertson-Penn as the low bidder.

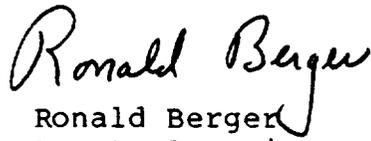
^{1/} Crown has not challenged the responsiveness and responsibility of either Robertson-Penn or the second low bidder.

^{2/} While, with respect to steam usage, Crown does allege that the estimates are too low based on its own experience and in comparison with figures obtained from similar operations, the Army states that its estimates are based on steam production logs from the last operational period of the facility. Crown asserts that the reported usage must be inaccurate, but complains that it cannot comment further because the Army has not provided it with copies of the logs.

We do note that Crown also protested the terms of the previous solicitation for laundry services at Fort Rucker. This protest, which involved many of the same issues presented here, was denied. See Crown Laundry and Cleaners, Inc., 64 Comp. Gen. 179 (1985), 85-1 CPD ¶ 21.

During the pendency of this protest, the Army made a determination that uninterrupted laundry services were essential and then proceeded with the award to Robertson-Penn. Crown contends that this determination was improper. We need not consider this contention since, in view of our decision that Crown is not an interested party, it is clear that Crown was not prejudiced by the agency's decision in any event.

The protest is dismissed.


Ronald Berger
Deputy Associate
General Counsel