



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Justin Weiss, M.D., P.C.

File: B-227861

Date: September 11, 1987

DIGEST

Cancellation of a solicitation after bid opening is proper where the only acceptable bid submitted by the protester was found to be unreasonably priced, and protester does not establish otherwise.

DECISION

Justin Weiss, M.D., P.C. protests the cancellation of invitation for bids (IFB) No. F02601-87-B0036, issued by the Department of the Air Force. We deny the protest.

The IFB called for radiology services at Davis-Monthan Air Force Base and included requirements for bid and performance bonds and \$2,000,000 in liability insurance. Casa Grande Radiology X-Ray LTD submitted the lowest total bid (\$833,333.33) of two received, with Weiss second low (\$1,431,016). Casa Grande failed to execute a bid bond as required, however, and its bid therefore was rejected as nonresponsive. The contracting officer also determined after bid opening that: (1) Weiss' bid price was unreasonably high compared to both the original estimate and a revised estimate of \$200,000 per year for the services; (2) the requirement for \$2,000,000 of liability insurance was excessive compared to community standards and other Air Force base requirements, and lowering coverage to \$1,000,000 would benefit the government by increasing competition and lowering bid prices; and (3) deleting the requirement for bid and performance bonds also would lower prices and increase competition.

The contracting officer canceled the IFB for these reasons and thereafter issued a revised solicitation deleting the bonding requirement and reducing the required amount of liability insurance from \$2,000,000 to \$1,000,000.

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Weiss argues that any changes to the solicitation should have been anticipated prior to bid opening and that cancellation on the basis of IFB inadequancies therefore is arbitrary.

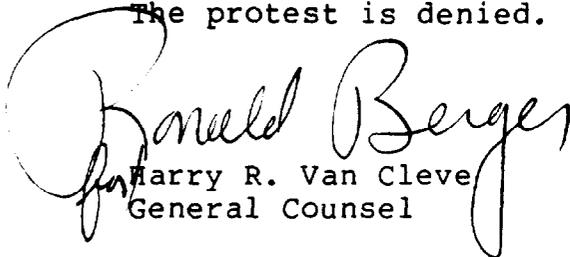
Weiss does not refute the agency's determination that its price was unreasonably high, and we find that cancellation of the IFB on this basis was justified. We find persuasive in this regard the fact that Weiss' bid was 70 percent higher than the only other bid received and substantially higher than the estimate provided by the hospital for the basic year and first option year (\$533,104 compared to \$128,584). The government's estimate later was revised upward to \$200,000 per year, but the Air Force specifically determined, and we believe reasonably so, that Weiss' bid was not reasonable even when compared to this higher figure.

A solicitation may be canceled after bid opening if the prices of all otherwise acceptable bids are unreasonable. Federal Acquisition Regulation, 48 C.F.R. § 14.404-1(a)(1) (1986). While a determination of unreasonableness must have a rational basis, it involves discretion on the part of the contracting officer, and properly may be based upon comparisons with government estimates and any other relevant factors, including any that have been revealed in the bidding. Daniels Mfg. Corp., B-223475.2, Jan. 13, 1987, 87-1 CPD ¶ 51. We will question a determination of price unreasonableness only where there is a showing of agency bad faith or fraud. Crown Laundry & Dry Cleaners, Inc., B-224374.2, Jan. 20, 1987, 87-1 CPD ¶ 71.

Weiss does not challenge the accuracy of the government estimate; does not attempt to explain the apparent excessiveness of its bid; and does not allege that the Air Force developed or applied the estimate fraudulently or in bad faith. Under the circumstances, cancellation of the IFB

was warranted based on the failure to receive any reasonably priced bids.1/

The protest is denied.

A large, stylized handwritten signature in cursive script that reads "Donald Berger". The signature is written in black ink and is positioned above the typed name and title.

for Harry R. Van Cleve
General Counsel

1/ We thus do not consider whether cancellation also was proper based on unnecessarily restrictive insurance and bonding requirements.