



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Salwen Paper Co.

File: B-231354

Date: May 24, 1988

DIGEST

Agency decision to cancel solicitation is not unreasonable where agency failed to solicit several previous contractors and only one bid per line item was received.

DECISION

Salwen Paper Co. protests the cancellation after bid opening of invitation for bids (IFB) No. 2FYP-DC-88-0002-S issued by the General Services Administration (GSA) for various types of paperboard.

We dismiss the protest.

The agency canceled the IFB after the contracting officer determined that GSA had failed to solicit and receive adequate competition because several previous contractors did not receive copies of the solicitation. Only one bid was received on each line item. GSA justified its action by citing Federal Acquisition Regulation (FAR) § 14.404-1(c)(9), which states that an IFB may be canceled after opening when the contracting officer determines that cancellation is clearly in the government's interest.

Because of the potential adverse impact on the competitive bidding system of cancellation after bid prices have been exposed, a contracting officer must have a compelling reason to cancel an IFB after bid opening. FAR § 14.404-1(a)(1). Salwen argues that GSA's reason for cancelling the IFB is not compelling. Salwen also contends that GSA violated FAR § 14.407-1 (b), which provides that if less than three bids have been received, the contracting officer must ascertain the reasons for the small number of bids and that "[a]wards shall be made notwithstanding the limited number of bids."

C-12255

In considering cases involving cancellations, we recognize that the contracting officer has broad discretion to decide whether there is a compelling reason to cancel, and we limit our review to determining whether the exercise of discretion is reasonable. Phillip C. Clark Electrical Contractor Inc., B-226506, et al., June 25, 1987, 87-1 CPD ¶ 629. It is incumbent upon the protester to establish that the contracting officer abused this discretion. Id. We have upheld agency decisions to cancel solicitations when the agency failed to solicit one potential bidder, and have even recommended cancellation in such circumstances. Dan's Moving & Storage, Inc., B-222431, May 28, 1986, 86-1 CPD ¶ 496; Aul Instruments, Inc., B-219992.2, Sept. 20, 1985, 85-2 CPD ¶ 315. Under the Competition in Contracting Act of 1984, full and open competition is the standard for awarding contracts. Full and open competition is defined as meaning that all responsible sources are permitted to submit sealed bids on a procurement. 10 U.S.C. § 2302(3) (Supp. III 1985). Trans World Maintenance, Inc., 65 Comp. Gen. 401 (1986), 86-1 CPD ¶ 239. GSA's decision to cancel the solicitation after balancing the impact of exposing bid prices against the need to remedy the adverse effects on competition of the failure to solicit several potential bidders and the submission of only one bid per line item was appropriate in our view. We therefore find no basis to object to GSA's decision.

Finally, Salwen argues that GSA was required to make an award under FAR § 14.407-1. The regulation requires that award must be made notwithstanding the receipt of a small number of bids unless there is a compelling reason to cancel the solicitation. Under the protester's interpretation, no cancellation would ever be permissible if less than three bids were received, even under the specific circumstances enumerated in FAR § 14.404-1(c). Such an interpretation is plainly unreasonable.

The protest is dismissed.



hr Ronald Berger
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General Counsel