

Davis
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Comptroller General
of the United States

457207

Washington, D.C. 20548

Decision

Matter of: Control Corporation

File: B-255574.2

Date: July 20, 1994

DECISION

Control Corporation requests reinstatement of a protest it filed with our Office on October 26, 1993, against the award of a delivery order by the Federal Aviation Administration (FAA), Department of Transportation, for the maintenance of government-owned automatic data processing (ADP) equipment for a 1-year period, placed against Control Data Service, Inc.'s (CDS) nonmandatory ADP schedule contract with the General Services Administration (GSA). The delivery order was for the maintenance of a mainframe computer used by the FAA and the Department of the Army for computer-based instruction at Fort Leavenworth, Kansas. Control Corporation withdrew its protest on March 9 based upon a settlement agreement with the FAA, but now seeks to have the protest reinstated on grounds that the FAA did not honor the agreement.

We dismiss the protest.

On February 25, 1994, the protester wrote the FAA that "[w]e would be willing to withdraw our protest if the FAA would agree to have a solicitation for maintenance on your [computer] system available for bidding on no later than April 1, 1994." The FAA accepted this offer and outlined the following settlement terms:

"[I]n consideration of [Control Corporation's] immediate dismissal of the captioned protest together with any claim related thereto, the FAA agrees to promptly take action to terminate the underlying GSA order. In turn, a solicitation will be issued on or about April 1994, for this requirement. This action should allow Control Corporation the opportunity [to compete]."

Accordingly, Control Corporation withdrew its protest on March 9.

In implementing the terms of the settlement agreement, the FAA learned that the requiring activity, the Army, intended to remove the requirement from the FAA procurement channels and to incorporate the requirement into an Army solicitation. This was accomplished on May 18 with the issuance of request for proposals (RFP) No. DABT60-93-R-0005, which includes the requirement for the computer maintenance services covered by the settlement agreement. Control Corporation received a copy of this solicitation and the opportunity to submit a proposal in response to it.¹ The cancellation of CDS's contract by the FAA is to take effect on July 31, 1994, to ensure continuity of services until the Army can award a new contract.

Control Corporation seeks to reinstate its earlier protest of the award to CDS on the grounds that the FAA did not honor the settlement agreement that induced the protest's withdrawal. However, the record establishes, and Control Corporation admits, that it received an opportunity to compete for the requirement covered by the settlement agreement, via a solicitation issued by the requiring activity. The cancellation of CDS' contract will occur on July 31 to correspond with the award of a successor contract. Thus, there is no basis to reinstate Control Corporation's protest of the award to CDS, since the FAA has already carried out its obligations under the settlement agreement.

The jurisdiction of our Office is established by the bid protest provisions of the Competition in Contracting Act of 1984, 31 U.S.C. §§ 3551-3556 (1988). Our role in resolving bid protests is to ensure that the statutory requirements for full and open competition are met. Brown Assocs. Mgmt. Servs., Inc.--Recon., B-235906.3, Mar. 16, 1990, 90-1 CPD ¶ 299. To achieve this end, our Bid protest Regulations require that a protest include a detailed statement of the legal and factual grounds of a protest, 4 C.F.R. § 21.1(c)(4) (1994), and that the grounds stated be legally sufficient. 4 C.F.R. § 21.1(e). The facts alleged in the instant protest demonstrate that the FAA has brought about the relief requested under the terms of the settlement

¹Control Corporation has protested the terms of the Army solicitation to our Office (B-257685). This protest of the Army solicitation is unaffected by our dismissal of today and will be the subject of a future decision.

agreement. Thus, there is no basis to reinstate Control Corporation's protest, and this cause of action must be dismissed without further consideration.

A handwritten signature in black ink, appearing to read 'G. R. Pietrovito', written in a cursive style.

Guy R. Pietrovito
Acting Assistant General Counsel