

DECISION



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

600157

FILE: B-183695

DATE: November 14, 1975

MATTER OF: Square Deal Trucking Co., Inc.

97741

DIGEST:

1. Prior decision holding that since IFB contained defective award factors contract awarded should be canceled and award made to properly evaluated low bidder is affirmed on reconsideration as GAO recognized in prior decision that although award would be based on award factors other than contained in IFB, such award would be consistent with mandate of 41 U.S.C. § 253(b) and competition was not adversely affected by defective award factors.
2. Fact that bidder had performance bond under prior IFB which was canceled and readvertised provides no basis to waive failure of bidder to submit bond under resolicitation, which was separate and distinct procurement from canceled IFB.

Capitol Waste Systems (Capitol) has requested reconsideration of our decision of October 2, 1975, on the protest of Square Deal Trucking Co., Inc. (SDT), under solicitation No. BEP-75-151(A), issued by the Bureau of Engraving and Printing, Department of the Treasury (BEP).

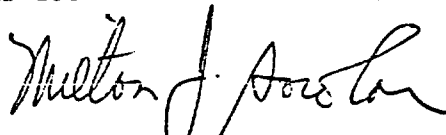
In that decision, we held that the solicitation contained improper award factors which limited the evaluation of bids solely to unit prices without regard to the total cost to the Government for the entire contract period, thereby violating the provisions of 41 U.S.C. § 253(b), which requires award on the basis of the most favorable cost to the Government. However, we found that as competition was not adversely affected, award should be made to SDT, whose bid offered the lowest actual cost to the Government for the entire contract term. Finally, we held that, notwithstanding receipt by Capitol of a letter from BEP accepting the bid of Capitol, no contract came into existence because Capitol did not comply with the condition contained in the letter, namely, the submission of a performance bond.

B-183695

Capitol contends that the recommended award of the contract to SDT is based on award factors other than those contained in the solicitation. We agree. However, as stated in the October 2 decision, we found that competition would not be adversely affected by extending the unit prices to arrive at the lowest cost to the Government for the full contract period, such action being consistent with the requirements of the above-cited statute.

With regard to its failure to submit the performance bond required by the letter from BEP, Capitol contends that it had such a bond for the prior solicitation of this requirement which was canceled by BEP because of ambiguous specifications. We do not view this as a basis for waiving the requirement under the subject solicitation because the prior solicitation is separate and distinct from the protested procurement which contained its own requirements regarding the submission of bonds.

Accordingly, we affirm our decision of October 2, 1975.



Acting Comptroller General
of the United States