

DOCUMENT RESUME

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[Short Bid Preparation Time]. B-187372; B-188030. May 20, 1977.
4 pp.

Decision re: Multi-Service Maintenance Corp.; by Robert F. Keller, Deputy Comptroller General.

Issue Area: Federal Procurement of Goods and Services (1900).
Contact: Office of the General Counsel: Procurement Law II.
Budget Function: National Defense: Department of Defense -
Procurement & Contracts (058).

Organization Concerned: Department of the Air Force.

Authority: A.S.P.R. 2-202.1. A.S.P.R. 2-102.2. A.S.P.R. 3-508.
47 Comp. Gen. 611. 47 Comp. Gen. 616. B-184052 (1975).
B-177689 (1973). B-177828 (1973).

The protester objected to the short bidding time, contending that insufficient time was allowed for it to submit an adequate bid. The contracting officer's decision to limit the bid preparation time was reasonable, since there was an urgent need for the services, and the bidders were familiar with the scope of the contract through past procurement efforts of the agency. The agency's decision to select a short period of time for submission of proposals was not arbitrary or capricious.
(Author/SC)

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E. W. [unclear]

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DECISION



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

FILE: B-187372, B-188030

DATE: May 20, 1977

MATTER OF: Multi-Service Maintenance Corporation

DIGEST:

1. Contracting Officer's decision to limit bid preparation time was reasonable where there was an urgent need for services and bidders were familiar with scope of contract through past procurement efforts of agency.
2. GAO cannot conclude that agency's decision to select short period for submission of proposals was arbitrary or capricious in view of urgent need for services and fact that contract was awarded at a fair and reasonable price.

On August 10, 1976, invitation for bids (IFB) No. 19C50-76-09127 was issued by the Department of the Air Force for janitorial services at Hanscom Air Force Base, Massachusetts. Bid opening was scheduled for September 10, 1976.

The IFB which called for bids for a requirements type contract included a bidding schedule containing a number of line items for each different operation to be performed by the contractor. Five amendments to the IFB were issued during the months of August, September, and October and the opening date was extended on four occasions to a final opening date of November 5, 1976. The amendments were issued to correct and clarify ambiguous specifications and to revise various contract provisions.

During the bidding a protest was filed with the contracting officer and this Office by the incumbent contractor, Multi-Service Maintenance Corporation (Multi-Service). The protest was withdrawn by Multi-Service after the contracting officer issued an amendment to the IFB clarifying areas the protester felt were ambiguous.

Bids on the IFB were opened on November 5, 1976. Five bids were received. Immediately after bid opening, Multi-Service

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filed a protest with the contracting officer contending, among other things, that the two lowest bidders were nonresponsive. However, the evaluation of bids revealed that the Government had made a substantial error in stating its requirements for the option period of the proposed contract. Since the option prices were evaluated for award the error resulted in the displacement of the otherwise low bidder. The contracting officer concluded that compelling reasons existed for rejection of all bids and the IFB was canceled on December 3, 1976. Therefore, no determination concerning the responsiveness or responsibility of any bidder was made by the contracting officer and consequently no decision was made on the merits of Multi-Service's protest. A determination was made to readvertise the contract under a revised IFB basically representing a return to the format and scope of the then-existing contract with Multi-Service.

IFB No. F19650-77-09057 calling for janitorial services for a period of nine months commencing January 1, 1977, and ending September 30, 1977, was issued on December 6, 1976. Multi-Service was already performing on an extension to its prior contract and further noncompetitive extensions were not considered by the agency to be justified even though Multi-Service had offered to further extend contractual coverage. In order to obtain competition for the janitorial services, a bidding period substantially shorter than the 20 days provided in Armed Services Procurement Regulation (ASPR) § 2-202.1 (1976) was provided. Since the existing contract was to expire on December 31 the contracting officer determined that an opening date of December 17, 1976, was required in order to insure the successful bidder sufficient lead time to assemble its workforce and equipment on the site by January 1.

Multi-Service protested the short bidding time contending that insufficient time was allowed for it to submit an adequate bid. In this connection the protester alleged that the requirements of the IFB were substantially and materially changed from those of the canceled solicitation and the then-current contract.

Two bids were received on the bid opening date, the lower of which was from Multi-Service. Evaluation of bids and a comparison of bid prices with the monthly price being paid for similar services during October, November, and December 1976 revealed that both bidders may have erred in preparing their bids.

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Both bidders were contacted and Multi-Service alleged that a mistake was in fact made. Later the other bidder also alleged a mistake in bid. However, neither bidder has yet supplied the Air Force with the details of its alleged mistake in bid.

In view of Multi-Service's protest and allegation of mistake the contracting officer considered other alternatives for procuring the needed services. One alternative considered was to enter into negotiations with Multi-Service to extend the then-existing contract for an additional period of time. It was determined that a further extension of Multi-Service's contract would not be beneficial to the Government and would not be equitable because the protestor would benefit from its protest and allegation of mistake. Therefore, it was decided to negotiate a contract for the initial three months of janitorial services on a competitive basis while the protest and allegations of mistake in bid were being resolved.

Four prospective offerors were contacted and asked to pick up request for proposals (RFP) No. F19650-77-09065 on December 23, 1976. Three offers, including one from Multi-Service, were received and opened on December 28, 1976. The low offer compared favorably with the price being paid Multi-Service under the then-current contract. Award was made to Hi-Grade Cleaning Company as the low offeror on December 29, 1976.

Multi-Service protested the short time allowed for submission of proposals and the fact that the proposals received in response to the RFP were not publicly opened.

Award has been withheld under the IFB pending resolution of the mistake in bid and our decision regarding Multi-Service's protest. The contract awarded under the RFP was extended through April. Another contract has been awarded for May, June and July.

We believe that the contracting officer's decision to limit the bid preparation time under IFB No. F19650-77-09057 was reasonable under the circumstances. While it is regrettable that the Air Force encountered so many difficulties in attempting to award a contract for the required janitorial services, the urgent


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need for continued services warranted an exception to the minimum time for submission of bids. ASPR § 2-102.2 (1976) provides that the 20 day bidding time need not be observed in special circumstances such as when the urgency for the supplies or services does not permit such delay. The only alternative would have been to further extend the protester's contract and we cannot say that it was unreasonable for the contracting officer to seek competition for the contract. We are also mindful of the fact that Multi-Service was the incumbent contractor and had participated in the prior procurement efforts. As such, the protester was familiar with the general scope of the tasks to be accomplished and should have had no major problems in assessing and pricing the requirements. See 47 Comp. Gen. 611, 616 (1968).

Regarding the proposal preparation time under RFP F19650-77-09065 although there are no specific guidelines in the regulations pertaining to proposal submission time in negotiated procurements we have held that the determination of the date to be specified for receipt of proposals is a matter of judgment properly vested in the contracting agency, and we will not substitute our judgment unless it appears that the decision of the agency was arbitrary or capricious. See National Small Business Association, B-184052, September 26, 1975, 75-2 CPD 196. In view of the foregoing we cannot conclude that the date specified in the subject RFP was arbitrarily or capriciously selected, or that such date, in view of the events preceding issuance of the solicitation, should necessarily have restricted competition for the procurement. In this respect we are mindful that a contract was awarded at a fair and reasonable price and that the protester was able to submit a reasonable offer. See B-177689, B-177828, August 28, 1973.

Regarding the protester's complaint that the offers received under the RFP were not publicly opened we note that there is no such requirement in negotiated procurements. See ASPR 3-508 (1976).

Accordingly, the protest is denied.


Deputy Comptroller General
of the United States