

**DECISION**



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

9747

FILE: B-193300

DATE: April 10, 1979

MATTER OF: Willamette Timber Systems, Inc.

*[Protest of IFB Cancellation After Bid Opening]*

DIGEST:

Cancellation of IFB after bid opening is proper where award price would exceed funds available for project and agency desires to reassess its minimum needs in light of high bids received.

Willamette Timber Systems, Inc. (Willamette) protests the determination of the Department of Interior (Interior), Bureau of Land Management, to cancel invitation for bids (IFB) No. YA-514-IFB9-15.

On September 15, 1978, Interior issued the solicitation for tree planting in the Eugene District of Oregon. Under the IFB, bidders could qualify their bids as to the maximum number of items and the maximum dollar amount they would accept. Seven bids were received and opened on October 11, 1978, the bid opening date. Interior's review of the bids indicated that the prices for the various line items exceeded the Government estimate for those items by 12 to 60 percent. As bidders had qualified the number of items and the maximum dollar amount they would accept, Interior calculated that the total award price under the IFB would be approximately \$1,700,000, exceeding not only the Government's cost estimate of approximately \$965,000, but also the funds available for the project. As a result, Interior rejected all bids and canceled the IFB. *DLG 00007*

Willamette alleges that by rejecting the bids and canceling the IFB, Interior is attempting to "fix prices on reforestation contracts," and to "drive prices down to meet [the] cost estimate." Willamette maintains the agency's cost estimate is unreasonably low and that resolicitation will force bidders to lower their bid prices. Willamette foresees the lower prices that may be offered on resolicitation will encourage contractors

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to "cheat" by violating labor and tax laws, improperly dispose of trees and default on their contracts. Willamette asks us to audit Interior's tree planting practices as well as the performance of contractors under prior contracts.

Interior reports that the IFB generally requires the contractor to plant seedlings six to eight feet apart, and to use a shovel to dig the planting hole. Interior states that this planting method and spacing is a departure from previous solicitations which allowed seedlings to be planted by a hoedad planting tool eight feet apart. Interior notes the new spacing and planting method was designed to avoid the high first year failure rate experienced under previous solicitations.

Interior believes the primary reason that bids received under the IFB were higher than expected was its failure to anticipate increased costs resulting from the specification changes. Interior states it must reassess the cost-effectiveness of these changes in light of the high bids received. Meanwhile, because of the short planting season, Interior states it has resolicited its requirements under revised specifications requiring seedlings to be planted six to eight feet apart, either with a shovel or a hoedad, depending on where the trees are to be planted. Interior states the revisions were designed to reduce the cost of the work and to permit award within the funds available.

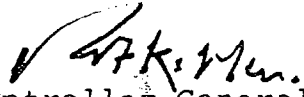
We recognize the authority of a contracting officer to cancel a solicitation is broad and in the absence of bad faith or an abuse of discretion, a decision to cancel a solicitation will be upheld. ABC Demolition Corporation, B-192111, November 13, 1978, 78-2 CPD 339. However, in order to protect the integrity of the competitive bidding system, once bids have been opened and prices exposed, a cancellation is permitted only where there is a compelling reason to cancel a solicitation. King-Fisher Company, B-192480, November 3, 1978, 78-2 CPD 321. We have held that an agency's determination that adequate funds are not available for contract obligation to be sufficient reason to reject

bids received and cancel a solicitation. King-Fisher Company, supra; Emerson Construction Company, Inc., B-190702, December 15, 1977, 77-2 CPD 468 and cases cited therein.

In this case, Willamette contends that Interior canceled the IFB to drive prices below those which are reasonable. However, the record indicates that Interior canceled the IFB because bid prices exceeded the funds available for the project and to enable it to reassess its specifications in view of the price increase. Interior attributes the price increase to its requirement for planting by shovel, rather than by hoedad. While Interior states that its cost estimate was too low for this reason, Willamette maintains that the cost estimate was defective because of an improper wage determination and miscalculation of labor productivity. However, since the IFB was properly canceled because of the lack of available funds, this question need not be resolved.

Finally, we note that Willamette has received an award under the resolicitation, and do not believe it is necessary to audit either Interior tree planting practices or the performance of contractors under prior solicitations, despite Willamette's contentions. Interior's cancellation of the IFB was proper for the reasons given, and there is no indication in the record that Interior's awarding contracts to the low bidders has fostered illegal contractor practices.

The protest is denied.

  
Deputy Comptroller General  
of the United States