

L-Cont

DECISION



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

81-1 CPD 289

FILE: B-201630

DATE: April 15, 1981

MATTER OF: General Communications & Electronics, Inc.

DIGEST:

Cancellation of IFB by contracting officer because only bid received was determined to be unreasonable as to price is not subject to objection where bid was substantially higher than Government estimate and prior contract price for similar work and record discloses no evidence of bad faith or fraud on part of contracting activity in making its determination.

General Communications & Electronics, Inc. (GCE) protests the cancellation by the Department of the Army, Fort Campbell, Kentucky of invitation for bids (IFB) No. DAKF23-80-B-0120, the second step of a two-step formally advertised procurement for an electronic private automatic branch exchange (EPABX) and telephone cable system at Blanchfield Army Hospital. The cancellation of the solicitation, a total small business set-aside, followed a determination by the Army that GCE's bid, the only one received, was unreasonably priced. As its basis for protest, GCE claims: 1) that the cancellation was improper because it results in the unnecessary exposure of its bid price; 2) that, as a result of increased company sales, it will not be able to qualify as a small business under any resolicitation; and 3) that the Army erred in its determination that GCE's bid was unreasonably priced since the Army and other agencies have procured similar systems at the same or higher price. For the reasons that follow, we are denying the protest.

B-201630

2

On December 3, 1979, the Army initially solicited technical proposals by issuing request for technical proposals (RFTP) No. DAKF23-80-R-0008 for its requirements. Three firms were subsequently determined to have submitted acceptable technical proposals and were therefore solicited for step two. Only GCE submitted a bid in the amount of \$807,612.25 for the EPABX and \$162,431.58 for the telephone cable system, a total bid price of \$970,043.83. Since the bid substantially exceeded the Government estimate, the procuring office requested a cost breakdown of the Government estimate from its headquarters which not only provided the requested cost breakdown but also furnished a copy of a previous contract for a similar system awarded at a substantially lower price. Based on the Government estimate and the prior procurement, the contracting officer canceled the solicitation. The Army states that the anticipated resolicitation will be issued on an unrestricted basis which will permit GCE to participate even if it should no longer qualify as a small business concern.

Section 2-404.1(a) of the Defense Acquisition Regulation (DAR) (1976 ed.) provides in substance that after bids have been opened award must be made to the lowest responsible bidder unless there is a compelling reason to reject all bids and readvertise. However, under DAR § 2.404.1(b)(vi), the invitation may be canceled after opening if the prices on all otherwise acceptable bids are unreasonable. In this connection, we have stated that a determination as to unreasonableness of price will be sustained barring bad faith or fraud. Penn Landscape & Cement Work, B-196352, February 12, 1980, 80-1 CPD 126; Gretchen's Key punch Inc., B-196496, June 17, 1980, 80-1 CPD 420.

In the instant case, we have only the unsubstantiated statement of the protester that the Government improperly determined that its bid was unreasonably priced. In this

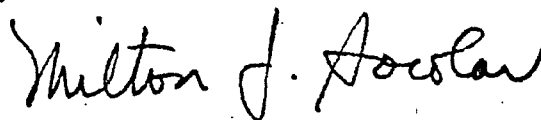
B-201630

3

regard, while the protester has submitted a list of prices obtained by the Government under other procurements for private branch exchanges, there has been no showing that these procurements were in fact for similar systems.

The record discloses that GCE's bid was substantially higher than the Government estimate and the price obtained under a prior contract. Based on this information, and in the absence of any evidence of bad faith or fraud on the part of the contracting activity, we conclude that the rejection of GCE's bid due to its unreasonable price and the subsequent cancellation were proper.

The protest is denied.



Acting Comptroller General
of the United States