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DECISION

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

FILE: B-201195

DATE: MAR 18 1981

MATTER OF: Mikulec Industries, Inc.

DIGEST:

[Protest of IFB Cancellation]

Determination to cancel portion of invitation and to readvertise after deletion of labor surplus area (LSA) restriction on basis that low LSA bid prices received were unreasonable when compared to low non-LSA bid prices received and prior contract prices was proper.

The Federal Supply Service of the General Services Administration (GSA) canceled item Nos. 13(a) through 15(b) and item Nos. 23(a) through 26(c) of invitation for bids No. GS-08-1466 on the basis that the low prices received from bidders eligible for award on these items were unreasonable. These items had been restricted for award to small business concerns located in labor surplus areas (LSA). The canceled items were readvertised for small businesses only, with the LSA restriction removed. Mikulec Industries, Inc. (Mikulec), protests the cancellation and the readvertisement because it was based on lower bids from non-LSA firms with which LSA firms can not practicably compete. Mikulec notes that no awards can be made at the bid prices on the readvertisement.

The receipt of excessive prices on small business and/or labor surplus set-asides is a proper basis for cancellation of the restricted items and readvertisement on an unrestricted basis. North American Signal Company, B-190972, May 19, 1978, 78-1 CPD 387; sections 1-1.706-3 and -5 and 1-1.804-1 and -4 of the Federal Procurement Regulations (1964 ed. amend. 192). The determination that a bid price is not reasonable is a matter of administrative discretion which our Office will not question unless it is unreasonable or there is a showing of fraud or bad faith. Espey Manufacturing and Electronics Corporation, B-194435, July 9, 1979, 79-2 CPD 19, affirmed, August 23, 1979, 79-2 CPD 148. This

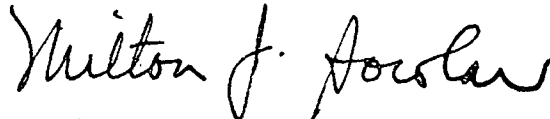
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determination may be based on all relevant factors including past contract prices and current bids from firms ineligible for award under the solicitation. Gregory Elevator Inc., B-193043, January 19, 1979, 79-1 CPD 32; Solar Resources Inc., B-193264, February 9, 1979, 79-1 CPD 95.

Under these standards, we will not question the rejection as unreasonably high of the prices in question. The cancellation was supported by a price/discount analysis which showed that on item Nos. 13(a) through 15(b) the low LSA bid prices were from 22 to 70 percent higher than the prior year's contract prices and from 14 to 50 percent higher than the low but ineligible non-LSA bid prices. This analysis also showed from 4- to 27-percent differentials between LSA and non-LSA prices for item Nos. 23(a) through 26(c). There were no comparable previous contract prices for those items. Further, Mikulec submitted no evidence which indicates the determination to cancel the invitation was unreasonable or based on fraud or bad faith.

As for the readvertisement of these items, we have been advised by GSA that the bid prices received were lower than the LSA prices received under the original invitation and are considered reasonable. Awards have not been made pending our resolution of the protest, not because the new prices are unacceptable.

Accordingly, the protest is denied.



Acting Comptroller General
of the United States