

**DECISION**

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

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**FILE:** B-212410.2

**DATE:** December 27, 1983

**MATTER OF:** Trend Western Technical Corporation

**DIGEST:**

Cancellation of a request for proposals (RFP) issued in accordance with Office of Management and Budget Circular A-76 was justified where the agency adjusted its in-house estimate to reflect the scope of work specified in the RFP and the adjusted estimate was lower than any proposal.

Trend Western Technical Corporation (Trend Western) protests the Army's decision to cancel request for proposals (RFP) No. DAAG08-82-R-0214 for base operations support at Sierra Army Depot. The RFP was canceled because the cost comparison conducted in accordance with Office of Management and Budget (OMB) Circular A-76 resulted in a determination that continuing in-house performance would cost the government less than contracting with Trend Western, the low offeror. Trend Western timely filed an administrative appeal of the Army's decision with the Commercial Activities Appeal Board (Board). The Board denied the appeal, and Trend Western timely filed this protest with GAO.

We deny the protest.

Paragraph C-7 of the RFP, as amended, provided that all offerors should propose staffing levels to perform unscheduled labor according to the hours incurred by the government in fiscal year (FY) 1981 for this labor. Unscheduled labor was defined as efforts that are performed on demand, such as repairs, as opposed to efforts that can be scheduled in advance, such as preventive maintenance. Trend Western's initial proposal consisted of a staff of 83 to perform unscheduled labor. After negotiations with the Source Selection Board (SSB), Trend Western revised its staffing levels upward to 90. The government estimate, after review by the Army Audit Agency (AAA), offered a staff of 68. Under the cost comparison, the government's estimate was \$3,528,900 lower than Trend Western's proposal.

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Trend Western appealed to the Board, contending that the government had failed to comply with OMB Circular A-76 in the preparation of its proposal. Specifically, Trend Western alleged that the government did not propose on the scope of work and level of performance specified in the RFP, as amended. Trend Western also argued that the government estimate should have been disqualified since the proposal of another offeror, Mercury Consolidated, Inc., was determined to be technically unacceptable at a proposed staffing level of 67.

In denying the appeal, the Board first stated that the government estimate materially deviated from the scope of work specified for proposed staffing in the amended RFP. However, the Board elected to adjust the government's proposed staffing upward to 90 to reflect the FY 1981 historical base for unscheduled labor. After a dollar adjustment due to the increased personnel adjustment, the Board determined that the government estimate was \$209,560 lower than Trend Western's proposal and that, therefore, in-house performance should continue.

Trend Western contends that the government estimate should be disqualified and award made to Trend Western because the government estimate was not responsive to the amended RFP. Trend Western also alleges that the Board lacks the authority to adjust the government estimate to make it "responsive to the RFP." Specifically, Trend Western claims that only the AAA, not the Board, has the authority to make the government estimate compliant with the RFP and that the Board may not adjust the government estimate other than to apply the "weighting factors" prescribed by OMB Circular A-76. Trend Western further points out that the Army admitted in its "Procuring Activity Legal Opinion" that, unlike the AAA, the Board could not have made major adjustments to the government estimate.

The Army argues that the Board is implicitly authorized to make adjustments to the government estimate by OMB Circular A-76, which empowers the Board to "resolve questions of the determination between contract and in-house performance," and by "DA Circular 235-1," which requires a "decision" from the Board. The Army also "deletes" its "Procuring Activity Legal Opinion" that the Board could not have made major adjustments to the government estimate.

We have held that an agency may adjust its in-house estimate to correct the possibility that the government estimate was not based on the scope of work specified in the solicitation. Satellite Services, Inc., B-207180, November 24, 1982, 82-2 CPD 474. Implicit in our decision is the recognition that a government estimate provides a standard against which bids and proposals are evaluated. The government estimate thus is not subject to the same rules as are bids and proposals, such as the requirement that a bid be responsive or, as here, that a proposal be in the competitive range. Therefore, we cannot question the Army's position on its authority to correct the government estimate. Since the government estimate, as properly adjusted, was lower than Trend Western's proposed price, the Army properly canceled the RFP.

We deny the protest.

*for Harry R. Van Cleave*  
Comptroller General  
of the United States