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DECISION



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

FILE: B-218081

DATE: February 21, 1985

MATTER OF: Boyd-Ferm, Inc.

DIGEST:

Protest that contracting agency failed to award a contract within bidder's initial bid acceptance period is dismissed since the Federal Acquisition Regulation does not impose a mandatory requirement to make award within the initial bid acceptance period and delay in award was due to protest being filed.

Boyd-Ferm, Inc. (Boyd-Ferm) protests the United States Army Corps of Engineers' (Corps) failure to award it a contract within its initial bid acceptance period under invitation for bids (IFB) No. DACA63-84-B-0155. We dismiss the protest under 49 Fed. Reg. 49,917, 49,920 (1984) (to be codified at 4 C.F.R. § 21.3(f)) because a valid basis for protest is not presented.

Boyd-Ferm advises that its bid accounted for all costs that would be associated with an award within the original 60-day bid acceptance period, but did not include any costs for extending the acceptance period. Boyd-Ferm contends that the failure of the Corps to award within the original period materially changed the IFB and that the Federal Acquisition Regulation (FAR) does not intend for bidders to assume the risk of nonaward for the convenience of the government.

The FAR, however, does not impose a mandatory requirement upon the government to make an award within the bidder's initial bid acceptance period. The Federal Acquisition Regulation, 48 C.F.R. § 14.404-1(d) (1984), permits the government to request an extension of the bid acceptance period in order to avoid the need for readvertisement where administrative difficulties delay an award beyond the bidders' acceptance periods. It is for each bidder to decide whether it wishes to continue to have its bid considered by extending its bid. See Maceto Inc., B-216166, Sept. 10, 1984, 84-2 C.P.D. ¶ 277.

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The delay in the Corps' making an award resulted from the filing of a protest by the next low bidder. The Corps withheld award of the contract pending resolution of the protest and requested bidders to extend their bids, as permitted by 48 C.F.R. § 14.407-8(b)(2). Boyd-Ferm refused to extend its bid and, therefore, its bid expired. Tempo, Inc., the next low bidder, extended its bid.

It is clear from Boyd-Ferm's submission that the agency did not act improperly here. Moreover, since Tempo extended its bid, there is no apparent need to cancel the solicitation and resolicit the procurement, as the protester requests. See Don Greene Contractor, Inc., B-198612, July 28, 1980, 80-2 C.P.D. ¶ 74.

The protest is dismissed.


for Comptroller General
of the United States