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DECISION



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

FILE: B-218960, B-219377 **DATE:** August 20, 1985

MATTER OF: King Machine Incorporated

DIGEST:

1. Contracting officer's rejection of only responsive bid on basis of price unreasonable-ness, resulting in cancellation of sollicita-tion, is proper when bid price is significantly above government estimate. Fact that resolici-tation resulted in prices which were also much higher than the government estimate has no bearing on the propriety of the cancellation since contracting officer had no way of predicting such prices.
2. Where bids are evaluated either pursuant to preference stated in the IFB or other alterna-tives suggesting that award to the awardee will cost less than an award to the protester, award is not objectionable.

King Machine Incorporated (King) protests the cancellation of invitation for bids (IFB) R6-1-85-67 issued by the Forest Service, Department of Agriculture, for the rental of an aircraft and the resolicitation and subsequent award of the requirement to Roseburg Skyways (Roseburg).

We deny the protest.

Under IFB R6-1-85-67, bids were sought on an alternate basis for either making the aircraft available for 1-year or 137 days. The IFB also included estimated flight hours for each of the alternates and the fixed rate of \$105 per hour that would be paid for flight time. King submitted the only timely bid. Roseburg submitted a late bid which was rejected as untimely and was not opened. King bid \$71,175 for the one year availability period and \$67,130 for the 137-day availability period. The government estimate for the periods involved was \$40,000. The contracting officer reviewed the estimate and decided that it was reasonable.

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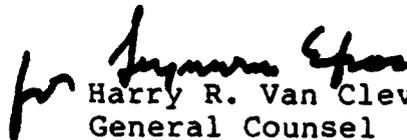
Since King's bid prices were 78 percent and 68 percent, respectively, above the government estimate, the contracting officer rejected King's bids as unreasonable as to price.

The contracting officer resolicited the procurement on the same terms as the original IFB. On the resolicitation King reduced its price for the 1-year availability to \$67,525, and bid the same amount (\$67,130) for the 137-day availability as it bid on the original IFB. Roseburg bid \$56,575 for the 1-year availability and did not submit a bid on the alternate. (The IFB stated that bidders were not required to bid on the alternate.) Notwithstanding the government estimate of \$40,000, the contracting officer believed that the competition on the second IFB established that \$56,575 was the lowest price for which the procurement could be achieved and, accordingly, made award to Roseburg.

King protests the cancellation of the original IFB and the award under the subsequent IFB on the grounds that the resolicitation gave Roseburg "another bite at the apple" after King's bid prices were exposed under the original IFB and that an award to King for the 137-day availability would have resulted in a lower total price. In the latter regard, King points out that its bid for 137-day availability is \$67,130 plus \$10,500 for 100 estimated flight hours for a total of \$77,630 whereas Roseburg's bid for 1-year availability is \$56,575 plus \$31,500 for 300 estimated flight hours for a total of \$88,075.

Whether Roseburg gained an improper second "bite" at the procurement depends on whether the original cancellation was improper. We have held that an agency's rejection of the sole responsive bid on the basis of unreasonable price, resulting in the cancellation of a solicitation, is proper when the bid price is significantly higher than the government's estimate. Mid South Industries, Inc., B-216281, Feb. 11, 1985, 85-1 C.P.D. ¶ 175. Moreover, the fact that the bid prices received on the resolicitation also exceeded the government estimate by a considerable margin has no bearing on the propriety of the cancellation, since the contracting officer had no way of predicting such prices. Warfield & Sanford, Inc., B-206784, June 23, 1982, 82-1 C.P.D. ¶ 620. Therefore, Roseburg did not gain an improper second "bite" at the procurement.

Further, while King's bid is less for the 137-day period, including flight time, the fact remains that the IFB stated that bidders were not required to bid on that basis and a comparison of King's bid (\$98,025) on the year basis, including flight time, with Roseburg's bid (\$88,075) on the year basis, including flight time, reveals that Roseburg's bid is \$10,950 less per year. Moreover, since flight time is a constant for the bidders in that the IFB provided the estimated number of hours and the rate to be charged per hour, if that constant is eliminated then Roseburg's bid of \$56,575 for aircraft for a year is significantly better than King's bid of \$67,525 for a year or \$67,130 for 137 days. Additionally, if instead of adding the cost for 300 hours to Roseburg's bid of \$56,575 (the IFB said the 300 hours was not guaranteed) it is assumed that no more than 100 hours will be required as the IFB indicated for the 137-day period, Roseburg's bid becomes \$67,075 (\$56,575 plus \$10,500 for 100 hours flight time at \$105 per hour). That \$67,075 amount is still less than King's bid of \$67,130 for 137 days even before the estimated flight hours are added to it. Accordingly, the award to Roseburg is not objectionable.


Harry R. Van Cleve
General Counsel