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DECISION



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

FILE: B-219448.3

DATE: November 13, 1985

MATTER OF: Florida Precision Systems, Inc.

DIGEST:

Contracting agency's rejection of sole bid on the basis of unreasonable price, resulting in cancellation of the solicitation, was proper when the bid price was significantly higher than the government's estimate and the record discloses no fraud or bad faith on the part of the contracting agency in making its determination.

Florida Precision Systems, Inc. (Florida), a small business, protests the Army Materiel Command's (AMC) cancellation of invitation for bids (IFB) No. DAAA09-85-B-2049 for 27,294 firing devices.

We deny the protest.

Florida submitted the only bid under the IFB in the amount of \$36.24 per unit, which was substantially higher than the government estimate and the price currently being paid for the devices under another Army contract. The contracting officer found that Florida's bid was unreasonable as to price. Therefore, he rejected it and canceled the IFB.

Florida contends that AMC has furnished no basis for the determination that its price is unreasonable because the agency has refused to reveal its estimate and the elements used to develop the estimate. Further, Florida states that the Army currently is paying \$26.05 per device under a contract for over 58,000 devices. The firm maintains that its price of \$36.24 is reasonable considering that this procurement is only for 27,294 devices--about one-half the number of units previously procured.

Because AMC intends to resolicit the requirement and intends to utilize the estimate prepared for this procurement, it did not release to the protester the estimate and backup documents. The estimate and related documents have been furnished to our Office for consideration in camera.

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AMC states that because there were no other competitive bids with which to compare Florida's price, the agency requested the Army Production Directorate to prepare an independent estimate. The Army Production Directorate prepared an estimate which took into account the fact that the Army was paying \$26.05 per device for a larger quantity of devices than solicited here. Because Florida's price substantially exceeded this estimate (as well as AMC's original estimate), AMC believes that the cancellation was justified. We agree.

The Federal Acquisition Regulation (FAR), 48 C.F.R. § 14.404-1(c)(6) (1984), provides that a solicitation may be canceled after bid opening if the prices of all otherwise acceptable bids are unreasonable. Such a determination involves broad discretion on the part of the contracting officer. Western Roofing Service, B-219324, Aug. 30, 1985, 85-2 C.P.D. ¶ 255; Mid South Industries, Inc., B-216281, Feb. 11, 1985, 85-1 C.P.D. ¶ 175. Our Office will not question such a determination unless it is clearly unreasonable or there is a showing of fraud or bad faith on the part of the contracting official. Western Roofing Service, B-219324, supra. We have recognized that a determination of price reasonableness properly may be based upon a comparison with a government estimate. Mid South Industries, Inc., B-216281, supra. In reviewing a contracting officer's exercise of his broad discretion in this area, we have noted the inexact nature of government estimates. Western Roofing Service, B-219324, supra.

Here, the protester neither has alleged nor shown fraud or bad faith. The fact that Florida's bid substantially exceeded the government's original and revised estimate (which recognized the difference in quantities being procured) and the fact that there were no other bids with which to compare the firm's sole bid support the contracting officer's determination to cancel the IFB. See Western Roofing Service, B-208395, Mar. 29, 1983, 83-1 C.P.D. ¶ 322.

Florida also states that AMC improperly failed to resolve the issue of price reasonableness before referring the issue of the firm's nonresponsibility to the Small Business Administration for possible issuance of a certificate of competency (COC). Florida explains that during the COC proceeding, the firm made costly changes to its quality assurance program to meet agency standards and the COC referral was withdrawn. Florida states that it would not have made such costly changes if AMC had notified the firm promptly after bid opening that there was question concerning the reasonableness of its price.

AMC explains that in the interest of saving time, both the process of determining price reasonableness and the firm's responsibility were initiated simultaneously.

Concerning Florida's contention that it was improper to reject the firm's bid on the basis of an unreasonable price because it had expended funds in meeting the responsibility requirements, we have concluded that the rejection of the firm's bid and cancellation of the solicitation constituted a reasonable exercise of discretion by AMC. Further, while, in hindsight, it may have been poor judgment for AMC to initiate the processes of determining price reasonableness and the firm's responsibility simultaneously, we find nothing legally objectionable in the agency's doing so.

The protest is denied.

for Seymour Efron
Harry R. Van Cleave
General Counsel