



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Alden Electronics, Inc.
File: B-224160; B-224161
Date: November 13, 1986

DIGEST

Protest by the low bidder against the post-bid opening cancellation of an invitation for bids is denied where the protester, also the apparent low bidder under the successor solicitation, has made no credible showing that it was materially harmed by the agency's procurement actions. A showing of prejudice is the gravamen of any viable protest challenging the agency's conduct of a procurement.

DECISION

Alden Electronics, Inc. (Alden) protests the cancellation of Federal Aviation Administration (FAA) invitation for bids No. DTFA11-86-B-00053 (IFB-00053) and the addition of the canceled items to invitation for bids No. DTFA07-86-B-00094 (IFB-0094), another FAA procurement. Alden, the apparent low evaluated bidder under IFB-0053, complains that the agency had no compelling reason to cancel that solicitation after the public exposure of bids. Alden requests that we direct the agency to reinstate the solicitation and to make an award consistent with its terms. Alden also claims the recovery of its costs of filing and pursuing the protest and, in the alternative, its bid preparation costs.

We deny the protest.

IFB-00053 was issued on June 26, 1986, by the FAA's Northwest Region for the acquisition of an interim color weather graphics display system on either a purchase or lease basis. The invitation also contemplated the government's exercise of options to acquire two additional systems and provided for hardware and software maintenance services. Bidders were advised that award would be made to the low responsive bidder in the aggregate for all items on either a purchase or lease basis (bids to be analyzed to determine life cycle cost present value). Alden was the low evaluated bidder under the invitation.

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However, after bid opening, the contracting officer determined to cancel IFB--00053. Among the reasons advanced by the contracting activity, it was determined that the two optional systems had now become firm requirements, and, significantly, that purchase of all three systems (funds becoming available for the purpose) would be a more economical alternative than acquiring the systems under a lease arrangement. In addition, the contracting activity determined that certain specification requirements had changed and that solicitations issued by other FAA regions incorporated technical specifications which would better meet the activity's needs.

Accordingly, the three systems sought by the FAA's Northwest Region were added to the schedule for IFB-00094, a procurement which had been issued on July 30 by the FAA's Southwest Region for the acquisition of one weather graphics display system on a purchase-only basis, with an option to purchase an additional system. An amended, IFB-00094 therefore contemplated the acquisition of five systems, (four firm and one optional) as well as installation and hardware maintenance.

IFB-00053 was canceled on August 29, with notice to that effect being furnished to the bidders on September 3. On September 5, the contracting officer for the Southwest Region added the canceled items to IFB-00094. On September 16, Alden protested the agency's action to this Office. However, the firm submitted a bid under IFB-00094, and, upon the October 1 bid opening, Alden was found to have submitted the lowest total bid price (although the bids have yet to be analyzed to determine life cycle cost present value).

We fail to see how the cancellation of IFB-00053 and the addition of those items to a solicitation under which Alden is apparently in line for an award has worked to the firm's inherent detriment. The total purchase price offered by Alden for the five systems under IFB-00094 is \$554,500, or an average per system price of nearly \$111,000. We note from the appropriate bid abstract that Alden's total purchase price for the three systems originally contemplated by IFB-00053 was \$310,000, or an average per system price of approximately \$103,000. These figures, then, refute Alden's contention that the cancellation of IFB-00053 has resulted in a prohibited auction situation, since there is no evidence that Alden was forced to lower its system prices in order to

remain competitive. In addition, it is important to note that Alden itself asserts there are no significant differences between the systems as specified under either invitation, so as to indicate that the resolicitation would have had an appreciable effect upon price. Therefore, we must conclude from the record that the agency's actions have not resulted in fundamental prejudice to the firm, which is the gravamen of any viable protest. Honeywell Information Systems, Inc., B-191212, July 14, 1978, 78-2 CPD ¶ 39; see also Ace Van & Storage Co. et al., B-213885, et al., July 27, 1984, 84-2 CPD ¶ 120 at 6.

In any event, the Federal Acquisition Regulation, 48 C.F.R. § 14.404-1 (1985), permits the cancellation of an invitation for bids after bid opening if in the best interest of the government, and, hence, we generally will not question a contracting officer's considered judgment that lower prices would be obtained if the requirement were resolicited using a revised specification. Display Sciences, Inc.--Request for Reconsideration, B-222425.2, Aug. 26, 1986, 86-2 CPD ¶ 223, aff'd upon reconsideration, B-222425.3, Oct. 1, 1986, 86-2 CPD ¶ _____. Thus, to the extent Alden contends that the agency's only real reason for canceling IFB-00053 was the expectation of more favorable prices if the three systems originally sought under IFB-00053 for either purchase or lease were resolicited on a purchase-only basis, and that this was not a legally sufficient ground to justify the cancellation, the argument is not compelling.

The protest is denied. Accordingly, there is no basis to allow the recovery of Alden's claimed costs. See TMS Building Maintenance, 65 Comp. Gen. 222 (1986), 86-1 CPD ¶ 68; Spectrum Enterprises, B-221202, Dec. 31, 1985, 86-1 CPD ¶ 5.

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