



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Cunningham
RJ

Matter of: B-224112.2
File: The Big Picture Co.
Date: March 2, 1987

DIGEST

Protest against an agency's cancellation of a request for proposal (RFP) is denied where the agency reasonably determines that the RFP does not accurately reflect its minimum needs.

DECISION

The Big Picture Company (BPC), protests the decision of the Headquarters Forces Command, United States Army, to cancel request for proposals (RFP) No. DAKF19-86-R-0001, which was issued as part of a cost comparison in accord with Office of Management and Budget Circular A-76. The RFP requested proposals for the operations and maintenance function of audiovisual training support at Fort Riley, Kansas.

We deny the protest.

The RFP required offerors to submit fixed-price proposals on the basis of providing all trained personnel, labor, tools, maintenance, equipment, repair parts, materials, supplies and services, except those to be furnished by the Army, and to provide the audiovisual and training support products, records, information and services at the Fort Riley Training and Audiovisual Support Center. Audiovisual and training support services were to include: administrative services; still photography; graphic art; audiovisual training aids and devices; audiovisual and training support instruction; audiovisual and training support design service; audiovisual production; display services; computer generated audiovisual products and services; training devices and audiovisual equipment. Offerors were also required to submit management, technical, and cost proposals which would be evaluated under management, technical, and cost evaluation standards.

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BPC and three other offerors submitted proposals under the RFP. Two proposals were determined to be unacceptable; thereafter, negotiations were conducted with two other offerors determined to be technically acceptable. On receipt of final offers, BPC was determined to have offered the lowest price of \$4,788,877 for purpose of comparison with the Army's cost for doing the work with its own employees. This comparison showed the government's cost of doing the work was about \$70,000 less than BPC's price. Thereafter, the details of the Army's cost estimate were released for review and possible appeal within the Army by the offerors. It was at this point that the Army discovered that its RFP estimate for the "most efficient organization (MEO)," which was the basis for the Army's cost estimate, was based on certain facts unknown to the RFP's drafters who were denied access to the MEO under Army regulations.

For example, the RFP, as amended, contained an estimated quantity of 4,604 training aids requiring more than one hour to fabricate instead of the 974 aids actually required. Further, unlike the MEO, the RFP omitted the listing of a film processor and omitted discussion of the relocation of various services which were proposed to reduce the workload and the number of employees. The Army states that the other competitive offeror, ASK Associates, whose price was higher than BPC's, developed its proposed price by using the erroneous work units statement contained in the RFP. The Army further states that BPC used a staffing estimate comparable to that found in the undisclosed MEO.

BPC and ASK appealed the accuracy of the Army cost estimate to an Army Appeals Board because of the above error and for other reasons. The Army Appeals Board subsequently decided that the "RFP and actual requirements do not match" in the above training aids area and in other areas and concluded that the Army employee cost estimate was invalid. Because of this conclusion, the Board ordered the cancellation of the RFP. Acting under this order, the Army has proposed to recompet the services under a new RFP which would also include television services. The Army states that these new television services are an "integral part" of the old requirement but could not have been contracted for under the original RFP because approval to contract for the services was received after the Appeal Board's decision.

BPC argues that the decision to cancel the RFP was erroneous because the Army could have renewed negotiations only with BPC and ASK to remedy the RFP deficiencies without issuing a new RFP. Further, BPC insists that the television services should be contracted for separately since the Army has

allegedly not provided documentary evidence to show that it has received the required approval to contract for these services. Finally, BPC generally argues that the Army misled all offerors in order to preserve the work for its own employees.

Generally, our Office does not review agency decisions to perform, rather than to contract for, certain services because we regard the decision as a matter of executive branch policy. Midland Maintenance Inc., B-202977.2, Feb. 22, 1982, 82-1 C.P.D. ¶ 150. However, we review decisions when the services are competed for the purpose of ascertaining the cost of contracting, and it is alleged that the resulting comparison with the agency's cost of performing the work is faulty or misleading. West Coast Fire Service, Inc., B-211484, Dec. 13, 1983, 83-2 C.P.D. ¶ 673. In addition, we review protests concerning the cancellation of solicitations issued for A-76 cost comparison purposes, since the competitive procurement system is involved. D-K Associates, Inc., 62 Comp. Gen. 129 (1983), 83-1 C.P.D. ¶ 55. We apply the general rules regarding cancellation in evaluating the propriety of the contracting officer's decision. Id.

The contracting officer is endowed with broad powers to decide whether to cancel a solicitation, Baucom Janitorial Services, Inc., B-210216, May 31, 1983, 83-1 C.P.D. ¶ 584, and need only establish a reasonable (as distinguished from compelling) basis for the cancellation. Allied Repair Service, Inc., 62 Comp. Gen. 100 (1982), 82-2 C.P.D. ¶ 541. Moreover, the decision to cancel is closely linked to an agency's discretionary authority to determine its minimum needs and the best method of accommodating its needs. The protester bears the burden of showing that the cancellation is unreasonable. Surgical Instrument Company of America, B-211368, Nov. 18, 1983, 83-2 C.P.D. ¶ 583.

Apart from the deficiencies in the RFP stemming from faulty understanding of the MEO, the Army has clearly shown that its needs would now best be served by adding television services to the aggregate of services to be contracted for. Although BPC argues that the Army has failed to show that it has received the required approval to do this additional contracting, we consider the Army's official statement that it has received approval to be sufficient evidence in itself of the Army's authority to contract for these new services. See Freedom N.Y., Inc., B-219676, Dec. 6, 1985, 85-2 C.P.D. ¶ 635. Given the expansion of the Army's contracting requirements, the Army had a reasonable basis to cancel the RFP and resolicit its requirements. See Dynalelectron Corp., B-216201, May 10, 1985, 85-1 C.P.D. ¶ 525.

Finally, we see no evidence in the record to support BPC's contention that the Army has manipulated the contracting process in order to preserve the work for its own employees.

Protest denied.

for *Sydney E. Van Cleve*
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General Counsel