

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

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FILE: B-183573

DATE: June 16, 1975

MATTER OF: Broken Lance Enterprises, Inc.

**DIGEST:**

Since specific contract in question has substantially run its 3-month base period, and in light of Navy's current position that as a result of its experience under its negotiation procedures for mess attendant services all future contracts of this type will be formally advertised, little useful purpose in terms of remedy would be served through further consideration of protest.

Solicitation No. N00140-75-R-0590 was issued on February 12, 1975, by the Naval Regional Procurement Office, Philadelphia. The request for proposals (RFP) requested offers to perform mess attendant services at the Naval Support Activity, Philadelphia, for a period of 3 months from April 1, 1975, through June 30, 1975.

Award of the instant RFP was made to Military Base Management of New Jersey, Inc. (MBM), which submitted the lowest offered price, \$47,724, and offered to supply a total of 13,699 man-hours. The Government's estimate in this regard was 14,930 man-hours. As required by section "B" of the RFP, offerors proposing less than the Government's estimated number of man-hours were required to substantiate "\* \* \* the manning difference with specific documentation demonstrating that the offeror can perform the required services satisfactorily with fewer hours."

In this regard, the Navy states that MBM stated a meaningful persuasive justification in support of man-hours which were less than the Government's estimate in that MBM had performed the same services in the same facility during the final quarter of fiscal 1974. Also, it is noted that the 13,699 man-hours proposed were very close to the revised total hours (13,948) on the manning charts submitted by the incumbent contractor, Broken Lance. Indeed, Broken Lance's substantiation of its manning figures provided a statement that it was currently performing in a satisfactory manner within the manning level set forth on its manning charts.

On April 4, 1975, Broken Lance filed its protest in our Office against the award to MBM on the basis that MBM did not submit a detailed justification for the reduced manning hours as required by the solicitation. Moreover, Broken Lance contends that the contracting officer should have amended the RFP to downwardly adjust the Government's estimate and reopen negotiations in accordance with ASPR § 3-805 (1974 ed.). As we stated in Dyneteria, Inc., B-181785, April 24, 1975, and ABC Food Service, Inc., B-182157, April 22, 1975:

"The problems associated with the manner in which food service contracts have been negotiated have become manifest in recent years. These problems resulted in numerous protests by competing firms, which in the aggregate demonstrate the difficulties inherent in the structure for evaluating proposals. See Matter of Ira Gelber Food Service, Inc.; T and S Service Associates, Inc., B-181663, March 28, 1975, 54 Comp. Gen. \_\_\_\_.

"The Navy has agreed, as a result of its experience under its negotiation procedures for these contracts, that future mess attendant service contracts will be awarded on a formally advertised basis. It is our view, particularly in light of Navy's current position, that options in existing contracts which were reached under improper negotiation procedures should not be exercised. See Matter of Ira Gelber Food Service, Inc., et al., supra. Exercise of those options would unnecessarily extend the effect of the questionable procedures.

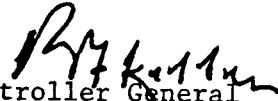
"Furthermore, because the specific food service contract presently at issue has substantially run its initial 1-year period, little useful purpose in terms of remedy would be served through further consideration of the protest."

With regard to the protest here in question, we similarly feel that in view of the very short period of performance and the fact that this period is nearly at an end, we would be unable to offer a remedy to Broken Lance, even if it were assumed that its

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protest was meritorious. However, we recognize that the Navy will formally advertise its needs for mess attendant services at the Naval Support Activity for fiscal year 1976, which commences on July 1, 1975. In this regard, we feel that Broken Lance will have the opportunity to participate in a properly structured competition.

Consequently, we will not further consider the merits of the protest.

  
Deputy Comptroller General  
of the United States