

**DECISION****THE COMPTROLLER GENERAL  
OF THE UNITED STATES**

WASHINGTON, D. C. 20548

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FILE: B-184284

DATE: July 22, 1976

MATTER OF: Santa Fe Engineers, Inc. --Request for Reconsideration

DIGEST:

97881

Prior decision that cancellation of ambiguous solicitation was justified because of prejudice to bidders is affirmed notwithstanding evidence showing that bidders subsequently lowered their bid prices on resolicitation. GAO was required to review situation existing at time of cancellation action, which indicated that specifications were unclear and that low bidder computed its bid based on work plan not intended to be permitted.

Counsel for Santa Fe Engineers has requested that we reconsider our decision Santa Fe Engineers, Inc., B-184284, September 26, 1975, 75-2 CPD 198, wherein we denied Santa Fe's protest of the cancellation of IFB DACA21-75-B-0009, issued by the Army Engineer District, Savannah, Georgia, for barracks modernization at Fort Bragg, North Carolina.

Our prior decision that cancellation was justified was based on the conclusion that the "Phasing of Work" provision of the solicitation was ambiguous and proved confusing to bidders. That provision established the order in which four groups of buildings were to be turned over to the contractor for renovation. With respect to the first three groups, it was clear that the work was to be sequential. With respect to the fourth group, it was not explicitly stated whether the work could be done simultaneously with the other groups of buildings or whether, as the agency intended, all the first three groups must be completed before work on group four could commence. Based on evidence submitted to our Office that one of the bidders (Castle Construction Company, Inc.) attempted unsuccessfully to obtain clarification of this point prior to bid opening and that the low bidder, T&B Builders, Inc., advised our Office that it had premised its bid on doing group four work concurrently with the other buildings rather than sequentially over a longer period of time, we sustained the cancellation action.

The protester points out that all bidders submitted lower prices under the resolicitation which followed our decision. Thus


B-184284

it is alleged that T&B's lowering of its bid price contradicts that firm's assertion that sequential performance of the work would "dramatically escalate" its overhead costs, and to the extent we considered T&B to have been prejudiced by the ambiguous provision our prior decision was mistaken.

We disagree. Obviously we were required to look at the situation existing at the time of our review, including the low bidder's assertion that its bid was computed in part on the basis of a simultaneous work plan. That bidder was prejudiced to the extent that its price was mistakenly based upon a work plan which did not exist. Since the specifications were unclear as to whether the group four work could be performed simultaneously with the work on the other group of buildings, we think that cancellation and resolicitation of bids was a reasonable course of action. We are not in a position to conjecture as to what caused the lowering of bid prices on the resolicitation. It may be, as the protester insists, that the lower prices were caused by the prior exposure of bids. On the other hand, subsequent intervening factors could have caused the lowering of prices.

Based on the foregoing, our decision Santa Fe Engineers, Inc., B-184284, September 26, 1975, is affirmed.

Deputy

  
Comptroller General  
of the United States