

**DOCUMENT RESUME**

08115 - [C3348426]

[Negotiation for Reasonable Bid Price Not Authorized]. B-191936.  
November 28, 1978. 2 pp.

Decision re: Crown Laundry and Cleaners; by Robert F. Keller,  
Deputy Comptroller General.

Contact: Office of the General Counsel: Transportation Law.  
Organization Concerned: Department of the Air Force: Moody AFB,  
GA.

Authority: 10 U.S.C. 2304(a). A.S.P.R. 2-404.1. A.S.F.R.  
2-404.2. A.S.P.R. 3-215. A.S.P.R. 2-101. A.S.F.R. 1-706.2.  
A.S.P.R. 3-201.3.

A company whose bid had been rejected as unresponsive under a small business restricted advertised procurement contended that the contracting officer should have negotiated with it for a reasonable price. Such negotiation would be contrary to procurement regulations. (HTH)

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

8-126

FILE: B-191936

DATE: NOV 26 1978

MATTER OF: Crown Laundry and Cleaners

**DIGEST:**

Negotiation with sole bidder for reasonable prices after small business restricted advertisement resulted in unreasonable bid is not authorized by law.

On February 23, 1978, Moody Air Force Base (Moody), Georgia, issued Invitation for Bids (IFB) F09607-78-B0005 as a small business restricted advertised procurement for laundry service for the base linen exchange and hospital for the period of May 1, 1978 to April 30, 1979. The fourth amendment to the IFB changed the delivery time from three days per week to two days per week. This amendment was acknowledged by George A. Belleau, President of Crown Laundry and Cleaners (Crown), on April 14, 1978. At bid opening on April 14, 1978, the only bid received was from Crown for \$70,485.67. By letter of April 20, 1978, Crown alleged a mistake, stating that amendment 4 was overlooked and that the bid was predicated on three-day pickup and delivery services. Crown revised its bid to \$63,412.80 on the basis of the two-day pickup and delivery service.

The contracting officer states that Crown was contractor for the services for the period from May 1, 1977, through April 30, 1978, at an estimated total cost of \$49,868.10, which was competitive with the only other bid of \$49,972.10. IFB F09607-78-B0005 reportedly had no appreciable change in quantities, but deletes the requirement for tablecloths estimated at \$3,500. Current quantities of the new requirement were used with the prior contract unit prices less the tablecloth requirement to arrive at the Government estimated cost of \$46,170.20. Compared with Crown's revised bid of \$63,412.80, an increase of \$17,242.60, nearly 35 percent, is indicated.

On April 21, 1978, the contracting officer determined in accordance with Armed Services Procurement Regulation (ASPR) section 2-404.2(e) (now the Defense Acquisition Regulation) to reject the one bid received as unreasonable. And pursuant to ASPR section 2-404.1(b)(vi) it was further determined to cancel the IFB after bid opening for the reason that the small business restricted advertised procurement did not provide competition which was adequate to insure reasonable prices.

The laundry service was readvertised under IFB F09607-78-B0009, without the small business restriction. Bids were received from Crown and National Linen Service (National), in the respective amounts of \$45,913.01 and \$42,305.08. Therefore, on resolicitation, Crown was not the low bidder.

Crown contends that the contracting officer, having established a precedent to restrict laundry service to small business, erred in not recommending "that he be permitted to enter into negotiations with Crown Laundry, (ASPR) 3-215, which would have been in the best interest of the Government."

ASPR section 3-215 provides for negotiation after advertising and ASPR section 3-215.1 permits negotiation if the bid prices received after formal advertising are determined to be unreasonable. ASPR section 3-215.2 provides that negotiation authority under ASPR section 3-215 shall not be used unless the bid prices received after formal advertising are determined to be unreasonable.

Formal advertising is defined in section 2-101 of ASPR and means procurement by competitive bids and awards as prescribed in Section II of ASPR. However, small business procurement is prescribed in Section I of ASPR. Section 1-706.2 provides that contracts for total or partial set-asides whether entered into by conventional negotiation or by "Small Business Restricted Advertising" are negotiated procurements, "\* \* \*" and shall cite as authority 10 U.S.C. 2304 (a)(1) in the case of a unilateral determination \* \* \*." The implementing regulation is published in section 3-201 of ASPR.

Section 3-201.3 of ASPR provides that in the event of a small business set-aside, Section 3-201 authority shall be used in preference to any other authority in Section III, Part 2. Section 3-201.3 further provides that:

"The authority of this paragraph shall not be to negotiate a reasonable price with a low responsible small business bidder whose bid has been determined by the contracting officer to be an unreasonable bid under Small Business Restricted Advertising procedures."

Consequently, negotiation with Crown as proposed by Crown for a reasonable bid price would be contrary to law.

The protest is denied.

R. P. KELLER

Deputy

Comptroller General  
of the United States