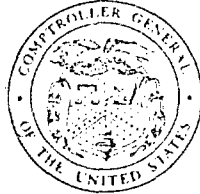


DECISION



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

60659

FILE: B-185477

DATE: March 19, 1976

MATTER OF: General Leasing Corporation

98466

DIGEST:

Cancellation of IFB and subsequent resolicitation was proper as omission from original IFB of downtime rental credit clause under which Government would obtain rental credit if equipment was inoperable for more than 8 hours constituted compelling reason under FPR § 1-2.404-1 to cancel invitation which would not meet Government's actual needs.

On November 3, 1975, the Department of Housing and Urban Development (HUD) issued invitation for bids (IFB) No. H-3972 for the installation and lease with purchase option of the hardware components of a UNIVAC 432 and 1782 high speed drum subsystem.

On November 18, 1975, bids were opened from three firms, American Used Computer Corporation, General Leasing Corporation (GLC) and UNIVAC, Division of Sperry Rand Corporation. Following the bid opening, several errors were discovered in IFB No. H-3972 and, therefore, the solicitation was canceled on December 8, 1975, without bids being evaluated. IFB No. H-3935, the resolicitation, was issued on December 12, 1975, and contained the following changes:

"(1) IFB H-3935 provides for two UNIVAC FH 432/FH 1782 SPIs, two UNIVAC FH 432 Drum Dual Channels, and two UNIVAC FH 1782 Drum Dual Channels when IFB H-3972 had incorrectly provided for only one of each of these hardware components;

"(2) IFB H-3935 provides for an initial contract period through June 30, 1976, when IFB H-3972 had provided for a term through June 30, 1978;

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- "(3) IFB H-3935 requires pre-bid site inspection with site preparation specification to be submitted with the bid when IFB H-3972 required site preparation specifications five days after contract award;
- "(4) IFB H-3935 provides for assessment of down-time rental credits when equipment which has been accepted is under repair or maintenance by UNIVAC (IFB H-3972 made no such provision); and
- "(5) IFB H-3935 provides for delivery of UNIVAC maintenance certificate prior to start of acceptance testing when IFB H-3972 required such delivery fifteen days after contract award."

The cancellation of the original IFB and the issuance of the resolicitation has been protested to our Office by GLC.

Regarding cancellation of an invitation after bids are opened, Federal Procurement Regulations § 1-2.404-1(a) (1964 ed. circ. 1) states:

"(a) Preservation of the integrity of the competitive bid system dictates that, after bids have been opened, award must be made to that responsible bidder who submitted the lowest responsive bid, unless there is a compelling reason to reject all bids and cancel the invitation. \* \* \*"

We recognize that the contracting officer is afforded broad authority to reject all bids and readvertise. Although a revision of specifications is a "compelling reason" for rejecting all bids and re-advertising a procurement, cancellation of an invitation should be limited to instances in which an award under the original specifications would not serve the Government's actual needs. 49 Comp. Gen. 211 (1969).

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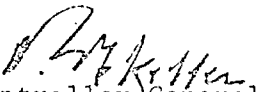
Regarding the first of the above-listed changes in the resolicitation, GLC argues that it was unnecessary to cancel the original IFB to add those additional items. GLC states these items, which according to GLC would only represent 8 percent of the total contract price, should have been procured under a separate solicitation, purchased directly from UNIVAC under the Federal Supply Schedule or added as an amendment to the contract which would have resulted from the original IFB.

HUD attempts to rebut this position by contending that the separate procurement of these items could potentially lead to two different suppliers furnishing portions of the system which HUD argues would have unnecessarily diffused responsibility in the installation of the system. GLC states that this reason is without merit because under its original bid, it had proposed to have the equipment installed by UNIVAC.

Based on the record before our Office, it does not appear that an award under the initial invitation, even with a new procurement for the additional items, would have satisfied the Government's actual needs.

Because of the failure of HUD to include in the initial IFB a clause relating to downtime rental credits, the Government would have been forced to continue to pay the full rental notwithstanding that the system was inoperable. Under the revised solicitation, if the system is inoperable for more than 8 hours, the Government is allowed a rental credit of 1/2 percent of the monthly rental charge for each hour the system is not functioning. We believe the omission of this clause from IFB No. H-3972 was a sufficient reason to cancel the solicitation.

Accordingly, the protest is denied.

  
Deputy Comptroller General  
of the United States