

DECISION



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

50781

97196

FILE: B-183333

DATE: June 13, 1975

MATTER OF: International Multi Services

DIGEST:

1. It was within the discretion committed to the contracting agency for it to suspend award action and to cancel solicitation, after bid opening, pursuant to directive from higher agency authority to drastically reduce expenditures. Agency was not required to make an award under solicitation in which it reserved right to reject any or all bids.
2. Furthermore, protest is rendered moot by fact that protester, who was the sole bidder, permitted its bid to expire and refused requests of agency for extensions of bid acceptance period.

While the protester originally protested procurement practices under various solicitations issued by the General Services Administration (GSA) the protester has since advised that its protest under file number B-183333 is restricted to invitation for bids (IFB) FP00-EG-80141-RA, issued October 10, 1974.

The subject IFB was for 13 items of specified pencils for GSA Supply Depot requirements. Upon the opening of bids on November 8, 1974, it was revealed that the protester was the only bidder for items 1 through 10 in a total amount of \$3,528.00. There were no bids for items 11 through 13.

The time allowed by the protester for acceptance of its bid was 60 days. By letter of December 20, 1974, the protester was requested to extend the bid acceptance time to January 30, 1975. The record shows that the protester declined to comply with that request. Nevertheless, and inexplicably, GSA made similar requests for extensions to February 27, 1975 and March 20, 1975. There is no indication that the protester acquiesced in either of these subsequent requests.

On January 16, 1975, an unsatisfactory financial report was issued on the protester. On February 4, 1975, a favorable plant facilities report was issued. The record states that the report had been requested despite the small dollar value of the procurement since the contracting agency had no prior experience with the protester and sought assurance that the prospective contractor was capable of performing in accordance with the contract requirements.

While Certificate of Competency proceedings were pending (in view of the adverse financial report), GSA's Assistant Commissioner for Procurement issued a memorandum dated January 10, 1975, directing that drastic measures be taken to reduce expenditures for inventories during the balance of the fiscal year. Among the actions envisioned was suspension of contract awards on some solicitations for definite quantity stock replenishments. The record indicates that the prospective award under the subject solicitation was held in abeyance accordingly, and the solicitation was subsequently canceled. GSA is unable to account for the later requests that the protester extend its bid acceptance period, but admits that those requests, as well as telephone conversations pertaining thereto, were made in error.

With regard to this solicitation, the protester alludes to the protracted delay and multiple requests for extensions, contending them to be arbitrary and discriminatory, and taken with the intent to deprive the protester of an award. It is the protester's contention that the January 10 directive to reduce expenditures for inventories was applied discriminatorily to the protester, and that other contractors have received favored treatment.

With regard to this latter contention, our review of the record fails to reveal tangible evidence to indicate any uneven application of the directive. The failure of GSA to make an award under the instant solicitation appears solely attributable to the January 10, 1975 directive, which was directed not at any particular contractor, but only indicated that a critical shortage of agency funds required a drastic diminution in purchases. In this regard, we note that Standard Form 33A, incorporated by reference into the solicitation, provides at paragraph 10b that the Government reserves the right to reject any or all bids. Under somewhat similar circumstances, whereby agency priorities must be assessed in the light of available funds, our Office has recognized the authority to cancel a solicitation as being in the best interests of the Government. B-174168, January 17, 1972. Accordingly, we find no basis to object to the cancellation of the IFB.

Furthermore, we note that prior to the expiration of the 60-day bid acceptance period, the protester was requested to extend its bid acceptance time until January 30, 1975, but refused to do so, resulting in the expiration of its bid on January 7, 1975. In view thereof, the protester's bid became ineligible for award under any circumstances, thereby rendering the protest academic. See B-173622, August 26, 1971.

B-183333

Accordingly, the protest is denied.

Deputy


Comptroller General
of the United States