

DECISION



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

60201

FILE: B-183897

DATE: November 21, 1975

MATTER OF: Oscar Holmes & Sons, Inc.
Ambassador Disposal Corporation
Scottie's Refuse Removal, Inc.

97696

DIGEST:

Agency decision that exercise of options to extend contracts for refuse removal services rather than soliciting for bids would be most advantageous to the Government, price and other factors considered, is not subject to objection even though would-be bidders claimed to be able to save the Government money, since market survey indicated likelihood that option prices were lowest available and since agency had need for continuity of services.

Oscar Holmes & Sons, Inc., Ambassador Disposal Corporation, and Scottie's Refuse Removal, Inc. have protested against a decision by the United States Air Force to exercise options in current contracts for fiscal year 1976 trash collection services at Andrews and Bolling Air Force Bases. The protesters contend that the competitive bidding process would secure the services for the Air Force at a lower cost than is available under the options.

The current contracts for trash removal at Andrews and Bolling were awarded in 1974. Included in the contracts were option clauses which gave the Air Force the right to extend the contracts through fiscal years 1976 and 1977. The options for fiscal year 1976 were exercised after the Air Force determined that it could not reasonably expect to obtain better prices through competitive bidding than were available under the options.

The protesters do not agree with the Air Force's determination. They assert that the refuse removal business has become increasingly competitive during the past year and that as a result recently awarded Government contracts for refuse removal services reflect a downward price trend. They identify various military installations in the Washington, D.C. area where lower prices for fiscal year 1976 allegedly have been obtained through competitive bidding, and claim that the Air Force would realize significant savings if it solicited bids for fiscal year 1976. In this regard, Holmes, prior to the time the Air Force decided to exercise the option, wrote to the contracting officer that if given the opportunity to bid it could "save the government thousands of dollars at Andrews and Bolling."

The propriety of an agency's exercising an option to extend an existing contract instead of conducting a new competition must be determined in light of the applicable provisions of the Armed Services Procurement Regulation (ASPR). ASPR § 1-1505(c)(iii) (1974 ed.) states that options should be exercised only if it is the most advantageous method of fulfilling the Government's need, price and other factors considered.

The Air Force reports its determination to exercise the options was based on considerations of both price and the desirability of maintaining continuity of services. With regard to the latter, the Air Force states that during previous periods of transition from one contractor to another, "service continuity was difficult to non-existent" because of overlap of old and new contractor equipment and because of initial difficulties of maintaining scheduled pickups, which resulted in extra costs and lost man-hours to the Air Force. The Air Force further states that the performance of the incumbent contractors was satisfactory during the first year of the contract. Thus, the Air Force regarded exercise of the options as advantageous to the Government because of the need to minimize service disruptions and "extra Government cost due to contractor changeover" and the expectation that it would continue to receive satisfactory service from the incumbent contractors.

With regard to price considerations, ASPR § 1-1505(d) provides that if the contracting officer "anticipates that the option price will be the best price available," he does not have to issue a solicitation to determine if the option price would be the most advantageous to the Government. Rather, the contracting officer may rely on "a/n informal investigation of prices, or other examination of the market" to make that determination.

In the present case, the Air Force reports that it undertook market tests for refuse removal services at both the base and major command levels. These market tests were based primarily on, but were not limited to, responses to solicitations issued by other area agencies such as the General Services Administration, Walter Reed Army Medical Center, the Government of the District of Columbia, and various Army facilities. In most cases, an upward trend in the market was indicated. In a few instances, referred to by the protesters, the low bids received for fiscal year 1976 were lower than 1975 contract year prices. However, it is reported that in some of those instances the 1975 contracts were not awarded to the low bidder, and that a comparison of 1976 bid prices with 1975 low bid prices reflects an upward trend overall. Thus, it is the view of the Air Force that price considerations also warranted exercise of the options.

We think the Air Force acted reasonably and in accordance with the applicable regulatory provisions. Although not every facility surveyed reported an increase in the cost of acquiring refuse removal services, we note that most of them did so. We further note that in two instances where the 1976 low bids were below the 1975 low bids, the differences (\$10,967/\$10,800; \$46,788/\$44,020) were not significant. With regard to Holmes' letter to the Air Force, we have previously held "that after the contracting officer received information that better prices than those in the option were available, he was precluded * * * from exercising the option * * *." B-173141, October 14, 1971. However, despite Holmes' claim that it could save the Air Force thousands of dollars, the Air Force market survey indicated that Holmes had been submitting bids for area refuse removal contracts that were higher than the low bids submitted on both the 1975 and 1976 solicitations, and we think the Air Force reasonably could have concluded that Holmes' assertion of savings was not likely to be borne out.

In essence, the provisions of ASPR § 1-1505 call for the agency to make a judgment as to whether option exercise is the most advantageous method of fulfilling the Government's needs, price and other relevant factors considered. Here, based on an informal investigation of market prices and after considering other relevant factors, the contracting officer determined that option exercise was the most advantageous method of fulfilling the Government's needs. We believe that our Office may not object to such a determination unless we find that the provisions of ASPR were not followed or that the determination itself was unreasonably made. B-178704, October 3, 1973. We find no basis for concluding that the determination to exercise the option was unreasonable in this case.

Accordingly, the protests are denied.


Acting Comptroller General
of the United States