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DECISION



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

40353

FILE: B-178031

DATE: January 21, 1974

MATTER OF: Davho Company, Inc.

DIGEST: Protest denied against failure to award contract to low bidder under one of three invitations for bids and a request for proposals all subsequently cancelled because the scope of a project calling for modification of a fuel storage system was reduced to such an extent that the Department of the Army accomplished needs by performing work in-house utilizing available Government equipment.

Davho Company, Inc., filed a protest against the failure of the Fort Devens, Massachusetts, Purchasing and Contracting Office, Department of the Army to award the firm a contract for the modification of the fuel storage system to achieve additional fuel storage capability at the United States Army Airfield located at the procurement activity.

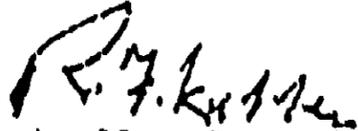
The Department of the Army advises that three unsuccessful attempts were made to satisfy the requirement by utilizing formal advertising. Davho was the low acceptable bidder under one of those three attempts. No awards were made because the low acceptable bids received quoted prices which were unreasonable in view of the Government estimates. Because the requirement became urgent due to impending loss of an alternate fuel storage source, a request for proposals (No. DAKF31-73-R-0001) was issued under the negotiation authority of 10 U.S.C. 2304 (a)(2), as implemented by section 3-202.2(ii) of the Armed Services Procurement Regulation (ASPR). The determination and findings of the contracting officer stated that negotiation on the basis of public exigency was necessary to insure uninterrupted flight operations at the airfield and permit aircraft from performing assigned missions.

Three timely proposals, and one late proposal, were received. Negotiations were undertaken to obtain reasonable prices but were unsuccessful. Shortly after the Davho protest was filed, the scope of the project was reduced to such an extent that the Army determined that the project would be accomplished by in-house personnel utilizing available Government equipment. Therefore, the request for proposals was cancelled without award and the project performed by Department of the Army personnel.

The Department of the Army concedes that "there can be no question that this procurement was poorly handled from its inception to the time the requirement ceased to exist * * *." However, although you question the allegedly unreliable Army estimates used to preclude award to your firm, the fact remains that the requirement set forth in the various solicitations was not found to be consistent with eventual needs of the Government. Moreover, in view of what has occurred, we see no purpose to be served in discussing the propriety of the estimates used by the Army.

In view thereof, the protest is denied. See B-172764, July 8, 1971.

Deputy


Comptroller General
of the United States