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DECISION



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

FILE: B-212395.6 **DATE:** June 4, 1984
MATTER OF: Canon U.S.A., Inc.--Reconsideration

DIGEST:

Prior decision is affirmed on reconsideration where protester has not shown any error of law or fact which would warrant reversal of the decision.

Canon U.S.A., Inc. (Canon), requests reconsideration of our decision in Swintec Corporation, Canon U.S.A., Inc., Olympia USA, Inc., Guernsey Office Products, B-212395.2, B-212395.3, B-212395.4, B-212395.5, April 24, 1984, 84-1 CPD 466. In that decision, we denied Canon's protest that the life-cycle cost (LCC) testing methodology and application incorporated into invitation for bids (IFB) FGE-C4-75249-A, issued by the General Services Administration (GSA) for typewriters, was defective. We found that Canon had not shown that agency LCC methodology and application were unreasonable or prejudicial to Canon.

Canon specifically requests reconsideration of our conclusion that the ribbon selected by GSA for LCC testing of typewriters was proper. Canon also contends that we incorrectly approved the use of the residual value formula used by GSA.

The request for reconsideration is denied.

Our Bid Protest Procedures require that requests for reconsideration specify any errors of law or information not previously considered which would warrant reversal of our prior decision. 4 C.F.R. § 21.9(a) (1983).

With regard to the ribbon selected for LCC testing, which was single strike correctable ribbon, our decision acknowledged GSA's position that it used the same type of basic ribbon for all typewriters tested and that the ribbon was the most commonly used by government agencies. GSA further advised that in most cases it was not the highest cost per character ribbon available. We concluded that Canon had not shown that use of this ribbon was based only on "personal preferences or subjective judgment" or that its use was intended to prejudice Canon.

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Canon argues that we did not address its precise contention that GSA should have tested with the multistrike correctable ribbon, which is the most cost-efficient ribbon for all qualifiers since the purpose of LCC testing is to measure the lowest total cost of acquisition and operation over an item's extended life.

As we pointed out in our decision, the ribbon chosen was the one most commonly used by agencies for all typewriters tested. The number of ribbons used annually, which was a factor under the LCC, was defined in terms of the number of single strike correctable ribbons consumed annually. Since all typewriters under the LCC program were tested with this ribbon and all bidders assessed under the LCC for the same cost per ribbon, we again fail to understand how Canon was prejudiced by use of this ribbon, since this ribbon would be the one ultimately used for the typewriters to be acquired. Under these circumstances, we find no impropriety in GSA's choice of ribbon.

Canon also challenges our alleged conclusion that the use of the residual value element in the LCC was justified and states that we failed to consider whether or not the residual values calculated by GSA for the listed typewriters were consistent with the method stated in the IFB. We did not directly approve the residual value formula used by GSA. Our decision focused on Canon's primary argument, that the typewriters tested should have been assigned a negligible or no residual value because at the end of their useful lives the typewriters would be obsolete. We noted that of all the bidders, Canon's bid price was the highest (approximately \$200 higher than the next low bid). Also, Canon's evaluated bid price, including the residual value credit, remained the highest--over \$300 higher than the next low bid and \$720 higher than the awardee's, IBM, evaluated price. We concluded that even assuming Canon was correct and the IFB provided for a negligible or no residual value, instead of basing it on values taken from a survey of used typewriter dealers, Canon's bid price and/or evaluated price remained the highest of all bidders. Based on Canon's bid, under either GSA's or Canon's assigned residual values, Canon would not be in line for award. We found that under these circumstances, Canon was not prejudiced in the bidding by GSA's method of calculating residual values.

Canon argues that the bid prices submitted by Canon are totally irrelevant to the issues raised since it sought as a remedy a new solicitation. Canon further argues it would

have had a right to a GAO decision even if it had not submitted any bid at all, and no practical purpose could have been served by submission of other than a high bid by Canon, given the fact that all bids were to be publicly disclosed and "pricing strategies" revealed.

The protester essentially alleges that it made a business judgment to submit high prices to protect its pricing strategy and relied on an expectation that GAO would agree with it that the IFB was defective and the requirement should be resolicited. While a protester is free to make this judgment, it does not have the right to expect GAO to recognize that the price submitted is not a legitimately submitted price to be evaluated for award. We think it was reasonable to take the position most favorable to Canon, applying no residual value, and examine Canon's bid prices and relative standing under such circumstances. Accordingly, we find no error in our decision that, based on its bid prices, Canon was not prejudiced by the residual value assigned its machines.

Finally, Canon requests that its name be added to the vendors named in our letter to GSA accompanying our prior decision, which recommended corrective action by GSA concerning the multiple-award schedule (MAS) under solicitation No. GYE-B8-75246, because Canon had typewriters rejected by GSA on the basis of the same unstated specification requirement. Canon asserts it is entitled to the same corrective action. Our letter recommending corrective action for Swintec Corporation (Swintec) and Olympia U.S.A., Inc. (Olympia), under the MAS was based on Swintec's and Olympia's protests of that solicitation. Our records do not show, nor does Canon argue, that Canon timely protested against this solicitation. Under these circumstances, we have no basis to grant Canon's request.

We affirm our decision.

for *Harry R. Van Cleave*
Comptroller General
of the United States

