



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20541

B-178781

SEP 10 1973

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Mr. J. I. Misseri
T.A. Zelle's Restaurant
1201 East Main Street
Richmond, Virginia 23219

Dear Mr. Misseri:

Reference is made to your letter of June 1, 1973, protesting the action of the Procurement Division, Fort Lee, Virginia, in canceling item 4 of Department of the Army invitation for bids (IFB) No. DAB27-73-B-0076 and re-advertising the item under revised specifications.

IFB -0076 requested bids for furnishing meals and lodgings to Armed Forces Examining and Entrance Station (AFEES) applicants in Richmond, Virginia, as required during the period June 1, 1973, through May 31, 1974. Items 1, 2, 3, and 4 covered night lodging, breakfast (morning meal), supper (evening meal), and dinner (noon meal), respectively. Two bids were received and opened on May 14, 1973. You submitted a bid for furnishing only dinner (noon meal) at a unit price of \$4.25. The only other bid, which was submitted by the Jefferson Hotel, offered to furnish breakfast, supper (evening meal) and lodgings.

It is reported that your bid price for furnishing dinner exceeded the present cost incurred by the Government in feeding AFEES applicants by 215 percent. While an increase was expected due to the change from cold box lunches to hot noon meals served in a restaurant, an increase of this magnitude was considered exorbitant. In view of the price submitted, the Army reassessed its requirements. Upon review, the Army determined that the time lost by the AFEES in processing due to having the applicant leave the building for lunch would be excessive. For these reasons the contracting officer determined it to be in the best interest of the Government not to award item 4 (noon meal) of IFB -0076 at that time.

Since noon meals are still required, it was further decided to re-advertise with a change in specifications providing for catered hot box lunches to be delivered to the AFEES. Your firm will be given an opportunity to respond to the revised requirement.

[Protest of Cancellation of IFB Item]

BEST DOCUMENT AVAILABLE

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In your letter of August 3, 1973, replying to the contracting officer's report, you point out that the Jefferson Hotel was awarded a contract for furnishing the supper meal at a bid price of \$4.75 per meal. You maintain that since the specifications call for the same meal to be served at noon and supper, there is no basis for considering your bid price of \$4.25 for the noon meal excessive.

We note, however, that the estimated number of noon meals to be served is three times the number of estimated supper meals. It is apparent that the Army focused on the economics of size in making its decision. Moreover, you do not question the propriety of the Army's decision to revise its requirements to lessen the time needed by a military applicant for his noon meal.

Although requirements on which bids have been received should not be canceled except for cogent reasons, our decisions in similar situations have consistently held that a contracting officer does not abuse the discretion reserved to him when he rejects all bids on a solicited requirement because of substantial changes needed in the scope of the work concerned. See 49 Comp. Gen. 534 (1970). Also, paragraph 10(b) of the Solicitation Instructions and Conditions expressly reserved to the Government the right to reject any or all bids under the IFB, and it has been held that an invitation for bids does not import any obligation on the Government to accept any of the bids received, including the lowest correct bid. See 41 Comp. Gen. 709, 711 (1952), and cases cited therein. Furthermore, the cancellation of an IFB after bid opening but prior to award, when the specifications have been revised, is authorized by paragraph 2-4.1(b)(ii) of the Armed Services Procurement Regulation.

Accordingly, the record provides no basis for this Office to object to the action of the contracting officer in rejecting your bid on item 4 and not awarding you a contract on that item. In view thereof, your protest is denied.

Sincerely yours,

Paul G. Dombing
For the Comptroller General
of the United States