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Comptroller General
of the United States

United States General Accounting Office
Washington, DC 20548

Decision

Matter of: Native Blade, Inc.

File: B-293886

Date: May 20, 2004

David C. Holkan, for the protester.

John W. Sturges, Esq., U.S. Army Corps of Engineers, for the agency.

Sharon L. Larkin, Esq., and David A. Ashen, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

Protest against cancellation and resolicitation is denied where protester furnishes no basis to question agency's determination that original solicitation did not accurately reflect the agency's minimum needs; the record indicates that the type of equipment required under the original solicitation is significantly more expensive than the type of equipment which suffices to meet the agency's needs and which was specified in the new solicitation.

DECISION

Native Blade, Inc. (NBI) protests the Department of the Army's issuance of request for quotations (RFQ) No. W912BV-04-T-0055 (RFQ-0055), for the lease of mid-deck lawnmowers for use at the Lake Texoma recreational area on the Oklahoma and Texas borders.

We deny the protest.

On January 16, 2004, the Army issued RFQ No. W912BV-04-T-0031 for the lease of "front-deck" lawnmowers. When the agency subsequently made award to C&S Machine, Inc. under that RFQ, NBI, which had submitted a higher-priced quotation, protested the award on the ground that C&S had proposed mid-deck lawnmowers, and not the front-deck lawnmowers required by the solicitation. Upon further review, the Army determined that mid-deck lawnmowers, which are significantly less expensive than front-deck lawnmowers, suffice to meet the agency's needs. The agency therefore terminated the contract for convenience and issued a new solicitation (RFQ-0055) for mid-deck lawnmowers. Upon notice of the cancellation, our Office dismissed NBI's protest as academic. (B-293821, Mar. 31, 2004.)

RFQ-0055, issued on March 24, 2004, requested quotations for the lease of 12 “John Deere 757 or equivalent mowers with a 60-inch mower deck,” i.e., mid-deck lawnmowers, for a base year with four 1-year options. RFQ-0055 at 4-6. The RFQ established a response due date of March 30.

On March 25, NBI protested the RFQ, contending that resolicitation, rather than award under the original solicitation, was inappropriate. Further, according to NBI’s protest, the short deadline for a response to the new RFQ and the provision in the RFQ for the first lease period to commence on April 1 indicated that the “government is using this RFQ to obtain Sole Source services from a known supplier,” namely the prior awardee. Protest, Mar. 25, 2004.

NBI has furnished no basis for concluding that the Army acted improperly with respect to the cancellation and resolicitation. The Army explains, and NBI does not dispute, that the prior solicitation did not accurately reflect the agency’s minimum needs. Similarly, the Army explains, and NBI does not dispute, that the short response time set forth in the new RFQ is necessary so that the agency can begin grass-cutting in the spring in order to timely open the Lake Texoma recreational area to the public. Although NBI speculates that award may ultimately be made to a particular vendor under this RFQ, it has provided no facts showing that the Army has acted improperly.

The protest is denied.

Anthony H. Gamboa
General Counsel