



Decision

Matter of: Kingdomware Technologies

File: B-406966.3

Date: November 27, 2012

LaTonya Barton for the protester.

Maj. Ildiko E. Szentkiralyi and Lt. Col. Mark A. Ries, Department of the Army, for the agency.

Gary R. Allen, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Cancellation of a FedBid buy after receipt of bids or quotations was reasonable, where the solicitation did not clearly inform vendors as to the nature of the procurement or the basis upon which award would be made.

DECISION

Kingdomware Technologies protests the decision of the Department of the Army to cancel FedBid Buy No. 361699_04, conducted through FedBid Inc., for emergency notification system services.¹

We deny the protest.

BACKGROUND

The solicitation, issued on August 3, 2012, provided for the issuance of an order under a General Services Administration Federal Supply Schedule contract for emergency notification system services. The solicitation did not identify whether it was an invitation for bids (IFB) or a request for quotations (RFQ). Vendors were informed, however, that “bids” would be ranked by price, and that the bids may be evaluated using criteria other than price. The solicitation further provided that award would be made to the “responsible Seller whose offer conforming to the [IFB]

¹ FedBid is a commercial online procurement services provider that runs a website at FedBid.com.

will be most advantageous to the Buyer on the basis of price, technical capability, delivery, and past performance.” Solicitation at 2.

On August 7, after receipt of bids/quotations, the agency asked firms, including the protester, a number of questions concerning the technical merits of their bids or quotations. Kingdomware protested to our Office, contending that it was entitled to award as lowest-priced bidder. The Army subsequently informed the protester and our Office that it would take corrective action by cancelling the solicitation “to reassess the solicitation method and procedures prior to continuing the procurement process for this acquisition.” Contracting Officer Statement. We dismissed the protest as academic, and Kingdomware protested the cancellation of the solicitation.

DISCUSSION

The protester contends that the solicitation was an IFB that provided for award to the lowest-priced bidder. Kingdomware argues that the cancellation of the solicitation was improper because Kingdomware is ready and able to provide the services according to the material specifications of the solicitation. The Army responds that the solicitation was a RFQ that provided for award on a cost/technical tradeoff basis. Memorandum of Law at 2. The agency states that, because the solicitation did not provide details of the “specifics of the tradeoff source selection basis,” the agency was canceling the solicitation to clarify the basis for award. Contracting Officer’s Statement.

The standards for canceling a solicitation after receipt of bids or quotations differ. A contracting agency need only establish a reasonable basis to support a decision to cancel an RFQ. See Brian X. Scott, B-401960, Nov. 9, 2009, 2009 CPD ¶ 228 at 3. However, an agency must have a cogent and compelling reason to cancel an IFB after the receipt of sealed bids. See FAR § 14.404-1; General Projection Sys., B-241418.2, Mar. 21, 1991, 91-1 CPD ¶ 308 at 4.

Although the procurement here most closely resembles a negotiated competition, we conclude that cancellation of the solicitation was proper even under the more stringent standard applicable to cancellation of IFBs after bid opening. As the Army notes, the solicitation did not clearly apprise vendors whether the procurement was being conducted on a sealed bid or negotiated procurement basis. It also did not advise vendors of the basis upon which their submissions would be evaluated, which we have found to be a fundamental requirement. See Hyperbaric Techs., Inc., B-293047.2, B-293047.3, Feb. 11, 2004, 2004 CPD ¶ 87 at 5.

Since vendors were not properly apprised of these requirements in the original procurement, we conclude that the Army's cancellation of the FedBid buy was reasonable.

We deny the protest.

Lynn H. Gibson
General Counsel