

DOCUMENT RESUME

02389 - [A1572552]

[Cancellation and Readvertisement of Invitation for Bids].  
B-188429. May 25, 1977. 4 pp.

Decision re: Valley Cement Construction, Inc.; by Robert F. Keller, Deputy Comptroller General.

Issue Area: Federal Procurement of Goods and Services (1900).  
Contact: Office of the General Counsel: Procurement Law I.  
Budget Function: General Government: Other General Government  
(806).

Organization Concerned: Federal Highway Administration.  
Authority: F.P.R. 1-2404-1. 50 Comp. Gen. 177. B-181607 (1975).  
B-186248 (1976).

Company protested the cancellation and resolicitation of an invitation for bids issued by the Federal Highway Administration. The Agency properly cancelled the invitation for bids and readvertised the requirement, since funding under the original invitation was inadequate, and the readvertisement contained revised specifications which resulted in lower bids.  
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**DECISION**



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

**FILE: B-188429**

**DATE: May 25, 1977**

**MATTER OF: Valley Cement Construction, Inc.**

**DIGEST:**

Agency properly canceled IFB and readvertised requirement where funding under original IFB was inadequate and readvertisement contained revised specifications which resulted in lower bids.

Valley Cement Construction, Inc. (Valley), protests the cancellation of IFB 77-9-R10 and the resolicitation of the requirement by the United States Department of Transportation, Federal Highway Administration.

The IFB, which was issued on December 17, 1976, called for bids on a United States Forest Service requirement involving the repair, rehabilitation and reconstruction of St. Joe and Bluff Creek Roads in Idaho. On the January 18 opening date three bids were received ranging from the low bid of \$1,037,160 submitted by Valley to a bid of \$1,183,430. The administrative report submitted by the agency in connection with this protest indicates that the IFB was canceled and all bids rejected because sufficient funds were not available from the Forest Service. The letters sent to bidders indicated that the IFB was canceled because the prices bid were unreasonable. The requirement has subsequently been resolicited and the contract awarded to a firm other than Valley at a price of \$1,002,700.

Valley claims that the cancellation of the original IFB was improper because the agency's cost estimate was in error and Valley's original bid was reasonable. In addition Valley insists that any changes in the scope of work which were incorporated into the second IFB were minor and failed to result in significant cost savings.

The authority to cancel a formally advertised procurement after bids are opened is contained in Federal Procurement Regulations (FPR) 1-2.404-1 (1964 ed.). It provides in pertinent part:

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"(a) Preservation of the integrity of the competitive bid system dictates that, after bids have been opened, award must be made to that responsible bidder who submitted the lowest responsive bid, unless there is a compelling reason to reject all bids and cancel the invitation.

"(b) Invitations for bids may be canceled after opening but prior to award, and all bids rejected, where such action is consistent with § 1-2.404-1(a) and the contracting officer determines in writing that cancellation is in the best interest of the Government for reasons such as the following:

(1) Inadequate, ambiguous, or otherwise deficient specifications were cited in the invitation for bids.

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(4) Bids received indicate that the needs of the Government can be satisfied by a less expensive article differing from that on which the bids were invited."

In this connection we have often held that contracting officers are clothed with broad powers of discretion in deciding whether an invitation should be canceled, and that we will not interfere with such a decision unless it is unreasonable. Support Contractors, Inc., B-181607, March 18, 1975, 75-1 CFD 160; 50 Comp. Gen. 177 (1970).

In this case the agency informs us that in order to meet its funding requirement it canceled the original IFB and issued a new solicitation incorporating the following specification revisions:

"1. Staging and stockpile sites on Forest Service land (to be added) will allow the contractor to develop a suitable site close to the work. Suitable flat areas are almost non-existent. The original specification did not provide adequate areas.

"2. By agreement with the Forest Service, all materials for surfacing can now be taken from Halfway Hill Source 10-40-0035. The contractor will still be allowed to use Bluff Creek Source 10-40-0035 if he chooses. Previously, a contractor would be limited in the quantity of material allowed to be taken from the Halfway Hill Source, thus requiring utilization of two material sources.

"3. Watering has been changed from 207(1) Develop Water Supply, to 207(2) Watering, consistent with past practice. The high bid prices under the initial solicitation indicated there was confusion in the intent of the lump sum items.

"4. The Forest Service will not permit the contractor to close the road in the vicinity of the materials source until June 17th. The original solicitation permitted only periodic 30-minute closures which would impact on a contractor's method of operation.

"5. Section 405, Roadmix Bituminous Pavement has been revised to clarify the intent of the work by the use of additional bid items.

"6. The estimated amount of previously quarried material in the Bluff Creek Site will be pointed out to the bidders (should they elect to obtain material from this source).

"7. Work to be completed under Section 306 in the Bluff Creek Site is now detailed on Plan Sheet 10, thus clarifying the contractor's responsibility.

"8. An option has been added on crushed aggregate base to allow for one gradation instead of two for all crushed aggregate and plant mixture, which may result in considerable savings.

"9. Flagging allowance has been raised from \$5.00 to \$7.00 per hour for Government share.

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"10. Construction time has been increased from 225 to 260 calendar days which should make the project more attractive to bidders.

"11. A prime coat has been added to ERFO 2183(2) and 2182(3). Asphalt will be paid for under Item 405(6) Blotter Subsidiary, using Item 417 Rock or Crusher Rejects, if acceptable."

In view of the above cited changes in the scope of work, which appear to be fairly comprehensive, it is difficult to say that the agency's determination to cancel the IFB was unreasonable. See generally in this regard A.R.F. Products, Inc., B-186248, December 30, 1976, 76-2 CPD 541 which concerns the cancellation of a solicitation because of a lack of funds. Further, although Valley complains about the "inconsistent" reasons cited by the agency in its letters to the bidders and in its report to this Office we note that the reasonableness of the prices received and the limited funding available for the project are obviously related. It is clear from the record that because of the prices received the funding available did not appear to be adequate. In this connection it should be noted that the contract awarded under the second solicitation containing the revised specification is over thirty thousand dollars lower than Valley's original bid.

Regarding the agency's revision of its cost estimate we are informed that it has been increased to provide a more accurate picture of the probable cost of the project. We find nothing improper in the agency's actions in this regard.

The protest is denied.

*P. J. K. 114*  
Deputy Comptroller General  
of the United States