

Protest of)	Date: March 6, 1987
)	
TOTAL TEXTILE)	
RETAIL SERVICES)	
)	
Solicitation Nos. 549990-87-C-0019)	
549990-87-C-0079)	

DECISION

Total Textile Retail Services (TTRS) protests the cancellation of a basic pricing agreement for various janitorial supplies it was awarded under Solicitation No. 549990-87-C-0019 and the resolicitation of the requirement under Solicitation No. 549990-87-C-0079.

Request for Quotes (RFQ) No. 549990-87-C-0019 was issued by the Seattle Procurement and Material Management Service Office on October 27, 1986, with a quote due date of November 12, 1986. Three quotes were received, with TTRS' quote being low. A basic pricing agreement (BPA) was issued to TTRS for these items on November 25. The BPA specified that it "shall remain in effect for the period of December 1, 1986, through November 30, 1988. This agreement may be cancelled by either party on 30 days written notice to the other of the cancellation. Such cancellation shall be without liability to either party."

On December 8, Westco Apparel Service (Westco) filed a protest with the contracting officer claiming that the quotes had been miscalculated and that based on the estimated quantities it should have been determined to be the low quoter. By letters dated December 11, the contracting officer determined the protest to have merit and advised both Westco and TTRS that TTRS' BPA would be cancelled effective January 12, 1987, and the requirement resolicited.

RFQ No. 549990-87-C-0079 was issued on December 12 with a quote due date of December 31. Three quotes were received, with Steiner Corporation being the low quoter. TTRS did not submit a quote on this RFQ. A BPA was issued to Steiner on January 26, 1987.

TTRS submitted a protest to the contracting officer dated January 7, 1987, and received by him on January 9.^{1/} TTRS asserted that it had purchased in excess of

^{1/} A separate, identical letter to the "Associate General Consul" [sic], but with a Seattle address identical

\$7,000 of supplies to perform the BPA, that it had attempted in good faith to perform, and that it remained capable and willing of performingwe . It stated that the reprocurement "is improper and unfair," and requested that it be allowed to perform under the contract. TTRS further stated that:

It is our desire that this protest be handled in accordance with [PCM 2-407.8 e]. Since do not have the proper address for the Associate General Consul [sic], it is our desire to have your contracting officer forward a copy of this protest to the Associate General Consul and that the protest be considered by both your contracting office as well as the Associate General Consul.

By letter dated January 12, the contracting officer denied the protest as obviously without merit, stating the wording of the termination clause and finding that cancellation was pursuant to this clause and otherwise proper. The Regional Counsel concurred in the contracting officer's determination that its protest was obviously without merit. Since the protester had, however, explicitly requested a determination of the validity of its protest from both the contracting officer and our office, the Regional Counsel also referred the matter to us.^{1/}

Insofar as TTRS protests the cancellation of its BPA and the contracting officer's determination that the cancellation was justified, the issues it raises are not for consideration in a bid protest decision. Cancellation of a BPA is a matter of contract administration, which is amenable to resolution pursuant to the provision of the BPA implementing the Contract Disputes Act of 1978, 41 U.S.C. ' 601 et seq. M.L. Halle Oil Service, Inc., P.S. Protest No. 85-76, November 26, 1985. We do not, therefore, consider the propriety of the termination of TTRS' BPA.^{1/}

Insofar as the protest challenges the propriety of the reprocurement, the issue is untimely raised. Our timeliness standards, set out at Postal Contrading Manual (PCM) 2-407.8 d. (3), in this case required the protest to be filed within ten working days after the information on which the protest is based was known or should have been known. The contracting officer notified TTRS of the resolicitation by letter dated December 11, 1986. Even giving a week for this letter to be delivered to TTRS, it knew of the resolicitation more than ten working days before its protest was received by the contracting officer. See West Bay Market, P.S. Protest No. 86-08, April 7, 1987.

The protest is dismissed.

to that of the contracting officer was also received by the contracting officer.

^{2/} Given the protestor's request that both the contracting officer and our office review this case, it can be viewed as a timely, if somewhat premature, request for review by our office after an initial adverse decision by the contracting officer. PCM 2-407.8 d. (4).

^{3/} The BPA contained, at Clause 4, Claims and Disputes, the provision which referred all disputes under the BPA to be resolved pursuant to the Contract Disputes Act. Theprotestor may proceed to file a claim with the contracting officer if it wishes to pursue this matter.

William J. Jones
Associate General Counsel
Office of Contracts and Property Law

[Compared against original 2/22/93]