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DECISION

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

[Protest Alleging Agency Failed to Adhere to Stated Evaluation Criteria]

FILE: B-201140

DATE: March 5, 1981

MATTER OF: Allied Container Manufacturing Corp.

DIGEST:

**add the part to the list*

Where IFB in providing for evaluation on basis of sum of unit prices is structured so as to encourage unbalanced bidding and evaluation method specified in IFB is insufficient to provide assurances that award will result in lowest cost to Government because it does not provide for evaluation of bids on basis of Government's estimated requirements, IFB is defective, per se, and no bid can properly be evaluated; therefore, award should be terminated and remaining requirements should be resolicited under IFB providing for evaluation on basis of Government's remaining requirements.

Note →

Allied Container Manufacturing Corp. (Allied) protests the award of a contract to Alexandria Packaging & Supply Inc. (Alexandria) under invitation for bids (IFB) No. OTR 3032 issued by the Agency for International Development (AID) for certain shipping and warehousing services.

Allied alleges that it submitted the low aggregate bid under the IFB and that award was improperly made to Alexandria, a higher bidder, because AID failed to adhere to the stated evaluation criteria.

We believe the award was improper, but for a different reason, as explained below.

The IFB consisted of six items. The first item solicited a monthly price for 800 square feet of warehouse space. The next four items solicited per cube foot prices for packing and delivery services under different

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conditions. None of these four items specified a quantity estimate for the services involved. Elsewhere in the IFB the average monthly cube was estimated at 2,000 cubic feet with 3,000 cubic feet for a peak month. However, there was no indication what part of these totals related to each or any of the four items. The last item solicited a per cube foot price for burlap wrapping. Elsewhere in the IFB the annual volume of burlapping was estimated at 20,000 cube feet.

The IFB called for a "total aggregate amount" bid based on the addition of the unit prices without any extension of the estimates in the IFB. The "Basis of Award" clause stated that the price most advantageous to the Government would be determined on the basis of the lowest aggregate total. The clause further provided for the rejection of any bid that contains unrealistic prices in regard to other prices in the bid or to commercial or Government prices for the same operation.

Allied's aggregate total of \$81 was the low bid. Alexandria's aggregate total of \$653.60 was the high bid. However, AID decided that the individual item prices bid by Allied were unbalanced. AID calculated the actual cost to the Government for all six items by extending the unit costs to reflect what it states to be the average monthly estimates contained in the IFB. Based on these calculations, AID estimated that it would cost \$9,200 per month to purchase the services from Alexandria compared to \$78,000 per month to purchase the same services from Allied. Therefore, AID, made the award to Alexandria.

In our view, the IFB encouraged unbalanced bidding. As indicated above, the IFB invited bids on a unit basis and indicated that the selection for award would be made on the basis of the sum of the unit prices. While estimates of the amount of services that might be required were provided for all six items, there was no indication that these amounts would be applied against the bid prices to determine the low bid. Moreover, there was no breakdown of the estimate for delivery services from which the bidders could know what the estimated volume was for each of these delivery items.

Although the IFB did provide for the rejection of unbalanced bids, our Office has recognized that there is a two-fold aspect to unbalanced bidding. The first aspect is a mathematical evaluation of the bid to determine whether each bid item carries its share of the work plus profit or whether the bid is based on nominal prices for some work and enhanced prices for other work. The second aspect--material unbalancing--involves an assessment of the cost impact of a mathematically unbalanced bid. A bid is not materially unbalanced unless there is a reasonable doubt that award to the bidder submitting a mathematically unbalanced bid will not result in the lowest ultimate cost to the Government. Consequently, only a bid found to be materially unbalanced may not be accepted. Reliable Trash Service, B-194760, August 9, 1979, 79-2 CPD 107; Radiology Services of Tidewater, B-194264, June 18, 1979, 79-1 CPD 432.

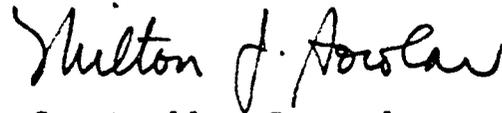
While Allied's bid is mathematically unbalanced, the evaluation criteria in the IFB do not provide for bids being evaluated on the basis of the Government's estimated requirements. Thus, the bid evaluation method in the IFB does not provide a basis for determining whether the bid is materially unbalanced.

Where an IFB is structured so as to encourage unbalanced bidding and the evaluation method specified in the IFB is insufficient to provide assurances that the award will result in the lowest cost to the Government, the IFB is defective, per se, and no bid can properly be evaluated. Southeastern Services, Inc., et al., 56 Comp. Gen. 668 (1977), 77-1 CPD 390. Further, revised evaluation criteria may not be used after bid opening to justify award because bidders have not competed on that basis. Southeastern Services, Inc., et al., supra.

Therefore, since the contract awarded to Alexandria is a requirements contract effective through March 30, 1982, we recommend that the contract be terminated and that the remaining requirements be resolicited under an IFB which provides for evaluation on the basis of the Government's estimate of its requirements.

Because this decision contains a recommendation for corrective action, we are furnishing copies to the

Senate Committees on Governmental Affairs and Appropriations and the House Committee on Government Operations and Appropriations in accordance with section 236 of the Legislative Reorganization Act of 1970, 31 U.S.C. § 1176 (1970), which requires the submission of written statements by the agency to the Committees concerning the action taken with respect to our recommendation.

A handwritten signature in cursive script that reads "Milton J. Arosler".

Acting Comptroller General
of the United States