



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

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B-178213

October 29, 1973

Briggs and Morgan
2200 First National Bank Building
Saint Paul, Minnesota 55101

Attention: B. C. Hart, Esquire
James H. Bowers, Esquire

Gentlemen:

Reference is made to your letter dated June 27, 1973, and prior correspondence, protesting on behalf of your client, The Hanson-Haves Company, the award of contracts for Zones A, C, D, E, F, G and H to any other bidder pursuant to invitation for bids (IFB) Nos. DABE03-73-B-0049 and DABE03-73-B-0050, issued November 13, 1972, by the Department of the Army (Central Procurement Division), Fort Sheridan, Illinois.

The invitations requested bids for local inbound and outbound packing and containerization services in connection with the movement of Government personnel. A total of eight areas of performance were specified (Zones A through D in IFB-0049 and Zones E through H in IFB-0050) and bidders were required to certify that they held the necessary operating authority to perform the required services.

Bids were opened under both invitations on February 23, 1973. Hanson-Haves was low bidder on only one of the eight zones; however, it suggested to the contracting officer that the operating authority of the low bidders should be checked prior to any award. The contracting officer accordingly requested the appropriate transportation office to supply such information. It was reported back to the contracting officer that a number of the bidders held the necessary intrastate authority, including Mondloch Transfer and Ben Deike Transfer, the low bidders for Zones C, D and H, respectively, as well as Hanson-Haves. In view of the foregoing, Zones C and D were awarded to Mondloch and Zone H was awarded to Ben Deike. (Also, Zone B was awarded to another firm but this award is not included in your protest.)

After being notified of the awards of Zones C, D and H, you protested these awards on behalf of Hanson-Haves on the basis that the contractors for these zones did not possess the requisite ICC authority to serve such zones in their entirety. Initially the Army

Protest of Army Contract Award

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attempted to support each of these contractor's request for operating authority. We are advised that the Army thereafter terminated the contracts for Zones C, D and H since the contractors had not obtained "the proper state and federal regulatory documents." At the same time, the Army has advised that it does not intend to award any of the items to Hanson-Maves because it considers that firm's bid prices to be unreasonably high, and therefore it intends to use other means to obtain the required services.

You insist that Zones A, C, D, E, F, G and H should be awarded to Hanson-Maves, at the lowest responsible bidder on each of these items. You contend that the unreasonableness of Hanson-Maves' bid prices has not been demonstrated and that a resolicitation at this point would undermine the integrity of the competitive bidding system.

Regarding the Army's determination that Hanson-Maves' bid prices are unreasonably high, we have reviewed the bidding to determine whether the conclusion is supportable. In comparison to the lowest bid received in each zone, Hanson-Maves is approximately 2.2 times higher in Zone A, 1.5 times higher in Zone C, 1.2 times higher in Zone D, 2.9 times higher in Zone F, 4.2 times higher in Zone G, and 2.4 times higher in Zone H. With regard to Zone E, where the protestor was the low bidder, the prices quoted by the protestor for some of the items when compared with the prices quoted by other bidders for relatively similar services in Zones F, G and H, appear to be unreasonably high.

We believe the above analysis supports the Army's view that Hanson-Maves' bid prices are unreasonably high when compared to other bids received. However, you question whether lower prices offered by nonresponsible bidders would justify denying award to Hanson-Maves. You also contend that the protestor's bid prices are very close to what the Government had been paying for these services and that in zones where other licensed carriers submitted bids they were higher than those of Hanson-Maves.

This Office has considered the use of bid prices submitted by bidders, who for some reason fail to qualify for award, as relevant to the determination of what constitutes a reasonable price if it is not indicated that the disqualification affected the bid price. See B-177432, December 21, 1972; B-173015, August 18, 1971; and B-167299, August 11, 1969.

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In the present case the Army is apparently able to obtain services from carriers authorized to operate within certain portions of the advertised zones at rates considerably lower than those of Hanson-Naves. In these circumstances, we cannot object to the issuance by the Army of individual purchase orders to obtain these services from carriers authorized to operate in such areas.

For the reasons stated above, we find no legal basis to object to the contracting officer's determination to reject your bids under the subject solicitations. Accordingly, your protest is denied.

Sincerely yours,

 Paul G. Dembling

For the

Comptroller General
of the United States

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