

DECISION



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

[Protest Alleging Proposed Awardee's Bid Was Unbalanced and 10,496 Nonresponsive]

FILE: B-194264

DATE: June 18, 1979

MATTER OF: Radiology Services of Tidewater

DIGEST:

DLB 01842

1. Bid which is mathematically unbalanced, but not materially unbalanced, should not be rejected.
2. Low bidder is not precluded from award simply because it may have bid too low and may suffer loss on contract.

On January 15, 1979, the Department of the Navy (Navy) issued invitation for bids (IFB) NOO189-79-B-0019 for the procurement of radiological and related services. The term of the contract was 1 year with two 1-year options. The IFB contained 48 line items which represented different series of x-rays.

Five bids were received. Tidewater Radiology (Tidewater) submitted the low evaluated bid. The Navy proposes to award the contract to Tidewater. *DLB-01843*

Before award, Radiology Services of Tidewater (Radiology), the second low bidder, filed a protest with our Office. Radiology alleges that Tidewater bid below-cost prices for some x-rays and overstated prices for other items. Therefore, Radiology states that Tidewater's bid is unbalanced and, as such, is nonresponsive. Moreover, Radiology states that Tidewater's bid virtually assures increased profit and higher costs to the Government if there is any increase above the Government estimates for x-rays, as is likely to occur.

With regard to Radiology's protest, the Navy calls attention to our decision in the matter of Chrysler Corporation, B-182754, February 18, 1975, 75-1 CPD 100, where we stated:

"In Matter of Oswald Brother Enterprises Incorporated, B-180676, May 9, 1974, our Office recognized the two-fold aspects of unbalancing.

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See, also, 49 Comp. Gen. 787, 792 (1970). The first is a mathematical evaluation of the bid to determine whether it is unbalanced. As noted in Armaniaco v. Borough of Cresskill, 163 A. 2d 379 (1960), and Frank Stamato & Co. v. City of New Brunswick, 90 A. 2d 36 (1952), the mathematical aspects of identifying an unbalanced bid focus on whether each bid item carries its share of the cost of the work and the contractor's profit or whether the bid is based on nominal prices for some work and enhanced prices for other work. The second aspect involves an assessment of the cost impact of a bid found to be mathematically unbalanced. Unless there is reasonable doubt that by making award to a party submitting a mathematically unbalanced bid, award will not result in the lowest ultimate cost to the Government, the bid should not be considered materially unbalanced. See B-180676, supra; B-172789, July 19, 1971; 49 Comp. Gen., supra; Matter of Global Graphics, Incorporated, B-180996, August 2, 1974, 54 Comp. Gen. [84]."

In the immediate case, Radiology has furnished nothing to establish that the actual number of x-rays will be so much higher than the estimated quantity that an award to Tidewater will not result in the lowest ultimate cost to the Government. Radiology has pointed out that at least one item in the IFB increased by 69 percent over the previous year's estimate. However, the contracting agency has indicated that even if it were to project a 70-percent increase for each year of the contract for each of the three items upon which Radiology was the low bidder, it would not change the standing between the two bidders for any year of the contract, including the option years. Thus, while Tidewater's bid may be mathematically unbalanced, it is not materially unbalanced. Therefore, it should not be rejected as nonresponsive. Oswald Brothers Enterprises, Incorporated, B-180676, May 9, 1974, 74-1 CPD 238; Edward B. Friel, Inc.; Free

State Builders, Inc.; Michael O'Connor, Inc., B-183579, November 20, 1975, 75-2 CPD 333; Accent General, Inc., B-192058, September 21, 1978, 78-2 CPD 215; Dement Construction Company; Universal Construction Company, B-192794, December 8, 1978, 78-2 CPD 399.

Radiology has suggested also that the overall pricing structure in the Tidewater bid may result in a total below-cost contract. However, we have held that the fact that the lowest bidder may have bid too low and may suffer a loss on the contract does not preclude an award to that bidder. Moorehead Electric Co., Inc., B-192075, August 9, 1978, 78-2 CPD 109.

Based on the foregoing, the protest ^{was} is denied.


Acting Comptroller General
of the United States