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DECISION



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

[Protest Alleging IFB Fostered Unnecessary and Unreasonable Contingency Pricing]

FILE: B-197706

DATE: August 25, 1980

MATTER OF: Safeguard Maintenance Corporation

DIGEST:

IFB for fixed price custodial services contract which includes requirement for trash and snow removal is not defective merely because agency did not specify size and location of trash containers and required contractor to perform all snow removal at price fixed in advance where bidders could have obtained information from site visit and existing records to reasonably estimate amount of trash to be removed and snow removal, although unpredictable in amount, represented very minor portion of contract.

Safeguard Maintenance Corporation (Safeguard) protests invitation for bids (IFB) GS-05B-42034 for custodial services at the Patrick V. McNamara Federal Building and the Federal Parking Facility, Detroit, Michigan, and the award made thereunder, on the basis that the IFB fostered unnecessary and unreasonable contingency pricing on the part of bidders.

The IFB required the contractor to provide a minimum number of productive man-hours per week. The IFB also set forth certain tasks to be required of the contractor which were not encompassed by the specified minimum man-hour base. The tasks included:

1. window washing (excluding daily entrance glass cleaning)
2. carpet shampooing
3. snow removal
4. trash disposal
5. venetian blind washing
6. drapery cleaning.

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Bids were to be submitted on the basis of one overall fixed price per month.

Safeguard contends that because it cannot accurately predict the amount of snow which may have to be removed during the term of the contract, and because the IFB did not specify the size and location of trash receptacles, the IFB compelled bidders to include a large contingency amount in their bids to allow for the indefinite volumes of snow and trash with which they might have to deal. Safeguard states that in its view the proper approach for handling snow removal is for the Government to separately purchase this service upon an as-required basis, paying an hourly rate for the contractor's use of certain predetermined equipment and/or quantities of material that may be utilized. As for trash disposal, the protester argues that the IFB should have included a listing of the size and location of trash receptacles to be emptied and an estimate of the amount of trash which would have to be removed. Safeguard states that other GSA Regions utilize these procurement approaches.

Insofar as trash removal is concerned, we considered a similar situation in Consolidated Maintenance Company, B-196184, March 18, 1980, 80-1 CPD 210. In that case, a prospective bidder for janitorial services argued that it could not compute a price because of the absence of certain information in the IFB's specifications, such as the "total cubic yards of trash collection daily" and "total number of waste baskets by size." However, we held that an agency was not required to spend large sums in order to furnish bidders with the "precise details" of its requirements where information in the solicitation together with an opportunity for a site visit provided a reasonable basis for computing bids.

In the present case, GSA states that bidders could reasonably estimate the amount of trash to be removed by examining performance records located in the building manager's office. Additionally, we note that the agency conducted a pre-bid conference for the benefit of prospective contractors which included "a briefing on the contracting concept, the scope of work, the specifications, and * * * a tour of the building so that bidders can ascertain the complexities and the location of the service to be performed, along with the general and

local conditions which could materially affect conduct of operations or the cost thereof." Under these circumstances, we believe bidders were afforded a reasonable opportunity to formulate bids for trash removal.

Snow removal presents a unique problem because the amount of snow which will have to be removed cannot be predicted with any precision. GSA and Safeguard strongly differ as to the amount of financial risk which properly may be required of a contractor in performing this task. As indicated above, GSA expects snow to be removed for a price fixed in advance, while the protester suggests that snow removal services be obtained from the contractor on an hourly, as needed basis.

Although there is something to be said for each position, on balance, we cannot say GSA was unreasonable in taking the approach it did. The adoption of Safeguard's position -- which apparently the Government has done in at least one instance -- would seem to relieve the bidder from including a contingency in its bid to protect itself from an unusually severe winter. On the other hand, we can see a benefit to the Government in having the obligation to remove snow included in the contract price and in not having to account for the hours certain equipment was used so that the contractor would be properly paid. Also, we believe that paying for the use of equipment on an hourly basis would not necessarily encourage the most economical performance of the contract. These factors have added weight when the relationship of snow removal to the scope of the entire contract is considered. The four responsive bids which were received ranged from approximately \$877,000 to \$969,000 per year, an average of \$923,000. In GSA's estimation, snow removal would account for about \$7,000, or less than one percent of the total bid. The protester has not seriously disputed this figure. Therefore, the contingency factor which might be added to compensate for unusually heavy snowfall would appear to be quite small in relation to the total bid. Under these circumstances, we do not believe GSA acted unreasonably in requiring bidders to remove snow for a fixed price.

The protest is denied.

For the

Harry R. Van Cleave
Comptroller General
of the United States