

DECISION

24392
**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548**

FILE: B-209152**DATE:** March 2, 1983**MATTER OF:** TechCraft Systems**DIGEST:**

Federal Procurement Regulations do not require pre-bid-opening determinations of available funding in procurements having alternative items; therefore, agency may determine amount of available funding for award of contract after bid opening.

TechCraft Systems (TS) protests the award of a contract to M. L. Wortham Electric Company (WECO) under invitation for bids (IFB) No. 685-35-82 issued by the Veterans Administration (VA) for installation of an energy management control system.

TS protests that the VA use of additional funds obtained after bid opening to award to WECO was contrary to the award procedures contained in the IFB.

The protest is without merit.

The bid schedule listed nine items. Item 1 was the base bid under the IFB. Items 2 through 9 were identified as "Alternate Items in Order of Priority." Item 2 consisted of item 1 with certain work eliminated. Items 3 through 9 consisted of certain additions to item 2. The IFB stated:

"A single award will be made on Item No. 1, but in the event the offer exceeds the funds available, a single award will be made on Item No. 2 or a combination of Items Nos. 2 and 3 through 9, which are in order of priority."

The VA awarded to WECO because it submitted the low bid on item No. 1. WECO's bid was \$220,961. TS's bid on item 1 was \$329,905, the fourth lowest bid. TS contends that the VA should not have awarded item 1 because the VA lacked sufficient funds at bid opening to award to WECO on the basis of its item 1 bid price. TS argues that because funds were

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unavailable for an award for item 1 at bid opening, the VA should have awarded items 2 and 3 for which TS submitted the low bid.

The VA advises that, contrary to TS's allegation, there was adequate funding to permit award to WECO on item 1. Although only \$209,200 was available at bid opening to fund the award, the VA was able to adjust funding up to 10 percent of the total project cost under the VA Administrator's delegation to the VA engineering service which conducted this procurement. This provided \$22,500 in additional funds, which were adequate to fund WECO's item 1 bid.

There is no requirement in the Federal Procurement Regulations that the contracting officer establish before bid opening the amount of funds available for award of base bids and alternates. In the case of a civilian agency, the determination of the amount of available funding may be ascertained at a time after bid opening when additional funding may become available. Thus, the amount of funding available for this procurement is within the VA's discretion. Sterling Engineering and Construction Company, Inc., 55 Comp. Gen. 443 (1975), 75-2 CPD 293; KenCom, Inc., B-200871, October 5, 1981, 81-2 CPD 275; Iannuccillo Construction Co. and ACMAT Corporation, B-192954, December 13, 1978, 78-2 CPD 411.

We note that TS alleges that award to TS under items 2 and 3 would have saved the VA \$2,385 as compared to other bids for items 2 and 3. However, as the IFB indicated, if funds permitted, the VA intended to make an award for item 1, which provided for more work and equipment than items 2 and 3, and WECO was the low bidder on item 1 by more than \$66,000.

We deny the protest.

Milton J. Aroslan
for Comptroller General
of the United States