

DECISION

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

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FILE: B-213197

DATE: April 23, 1984

MATTER OF: R. R. Mongeau Engineers, Inc.

DIGEST:

Protest that awardee submitted unbalanced bids under two different invitations and, therefore, should not have been awarded either contract is denied. Record does not show that bids were based upon nominal prices for some line items and enhanced prices for others and, therefore, we conclude that bids are not mathematically unbalanced.

R. R. Mongeau Engineers, Inc. (Mongeau), protests award of two contracts to Energy Economics, Inc. (EEI), by the Department of the Air Force pursuant to invitations for bids (IFB) Nos. F23606-83-B0047 and F23606-83-B0060. Both IFB's called for installation of cathodic protection systems at launch facilities in the area of Whiteman Air Force Base; the work required by IFB No. B0047 is located primarily in southwest Missouri while the work required by IFB No. B0060 is located primarily in central Missouri. Mongeau contends that the bids submitted by EEI under both invitations are unbalanced and, therefore, should have been rejected by the Air Force.

We deny the protests.

EEI argues that the protests are untimely because notification of the protests was not received by the Air Force until after both contracts had been awarded. However, we find that the protests were filed in a timely manner because Mongeau's initial protest letter was filed in our Office on September 28, or 2 days before the awards to EEI were approved by the Air Force. Mongeau had no reason to know that the Air Force was taking a position adverse to it until after it was notified that EEI had been awarded the contracts. See United Contract Services, Inc., B-209441, May 24, 1983, 83-1 CPD 560. In these circumstances, the protests were timely filed (received in our Office) in accord with section 21.2(b)(2) of our Bid Protest Procedures. 4 C.F.R. part 21 (1983).

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EEI was the low bidder under IFB No. B0047 with a total bid price of \$457,857.01 while Mongeau was second low with a total bid price of \$497,500. Under IFB No. B0060, EEI was the low bidder with a total bid price of \$467,499 and Mongeau was the second low with a total bid price of \$487,000. The gravamen of Mongeau's protest is that, even though EEI's total evaluated bid price for each IFB is lower than Mongeau's total evaluated bid price, because EEI has submitted unbalanced bids, the government will pay more for the required work by accepting EEI's unbalanced bids.

Mongeau argues that, by comparing EEI's bids under these IFB's to each other, it is readily apparent that the prices bid for certain line items of work are unbalanced. Mongeau contends that the work required under each IFB is almost identical (except for location) and, therefore, the bids submitted by EEI should reflect the similar work required under each line item by having similar pricing patterns. Mongeau contends that a comparison of the two bids submitted by EEI will show that: (1) EEI bid a high unit price for line item No. 0002 under IFB No. B0047 in anticipation that the Air Force would actually require more than the 30 deep wells estimated in that IFB; and (2) EEI bid a high unit price for line item No. 0003 under IFB No. B0060 with the expectation that the Air Force would actually require more than the 20 surface groundbeds estimated in that IFB. Mongeau contends that EEI unbalanced its bids in this manner because, based on its prior experience in the areas where the work was to be performed, EEI knew that the IFB estimates of how many deep wells and surface groundbeds would be required were wrong.

A comparison of EEI's bids for these two procurements shows the following unit prices for pertinent line items:

Bid Item No.	Description	EEI Unit Price	
		IFB B0047	IFB B0060
0001	Drill and test 3-inch dia- meter or larger hole 218 feet at 50 sites	\$ 914.77	\$ 938.25

Bid Item No.	Description	EEI Unit Price	
		IFB B0047	IFB B0060
0002	Ream 3-inch diameter or larger test hole to 10-inch diameter and provide complete cathodic protection system as specified for 30 systems (deep wells)	\$11,708.60	\$7,452.88
0003	Plug 3-inch diameter or larger hole, install surface groundbed and provide complete cathodic protection system as specified for 20 systems (surface groundbeds)	\$ 2,552.38	\$9,745.00

Clearly, the bidding pattern for each of EEI's bids is different.

Our Office has recognized that unbalanced bidding entails two aspects. The first is a mathematical evaluation of the bid to determine whether each bid item carries its share of the cost 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 materially unbalanced if there is a reasonable doubt that award to the bidder submitting the mathematically unbalanced bid will result in the lowest ultimate cost to the government. Consequently, a materially unbalanced bid may not be accepted. Reliable Trash Service, B-194760, August 9, 1979, 79-2 CPD 107.

EEI has offered the following explanation of the different bidding patterns. Its bid price was significantly higher for line item 0002 (deep wells) on IFB No. B0047 than for that line item on IFB No. B0060 because certain welding was required to be done under IFB No. B0047 which was not required to be done under IFB No. B0060. The work crew which would perform line item 0002 logically would do the welding, and, therefore, EEI added the cost of the welding to the price charged for line item 0002 in IFB No. B0047.

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EEI further explains that its subcontractor gave a substantial discount to perform subcontract work under line item 0002 under IFB No. B0060 because EEI was the lowest bidder under IFB No. B0047, which opened first, and, as the low bidder for the first IFB, the subcontractor determined that EEI was entitled to a substantial discount for the extra line item 0002 subcontract work to be performed under the second IFB if EEI received that contract also. EEI decided to pass the proposed savings resulting from the subcontractor's discount on to the government. EEI also reports that it bid a much higher price for line item 0003 (surface groundbeds) under IFB No. B0060 than for that line item under IFB No. B0047 because the digging condition in the geographical area specified in IFB No. B0060 is extremely rocky and resulted in a much slower rate of production for EEI when it worked in that area in the past.

The mathematical aspect of unbalanced bidding must be assessed by reviewing the pricing structure of the bids bearing in mind any differences in scope and nature of work required under each IFB and the conditions under which the work is to be performed. See Roan Corporation, B-211228, January 25, 1984, 84-1 CPD 116. As indicated above, the purpose of making an assessment of the mathematical unbalancing aspect of bids is to determine whether each bid item carries its share of the cost plus profit or whether the bid is based on nominal prices for certain line items and enhanced prices for other items. Crown Laundry and Dry Cleaners, Inc., B-208795.2, B-209311, April 22, 1983, 83-1 CPD 438. Based upon EEI's explanation for its bid prices and the different work requirements and different worksite conditions of each IFB, we conclude that EEI's bids are not mathematically unbalanced. Therefore, we need not consider Mongeau's charge that the bids are materially unbalanced. See Roan Corporation, supra.

Accordingly, we conclude that the awards were properly made to EEI, and we deny the protest.

Melton J. Arosler

Acting Comptroller General
of the United States