

*P. Williams P.L.I.*



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: A. J. Fowler Corporation

File: B-224156.3

Date: March 2, 1987

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### DIGEST

Protest of agency's decision whether to exercise an option is dismissed as a matter of contract administration not within the General Accounting Office's bid protest function.

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### DECISION

A. J. Fowler Corporation protests any exercise of an option by the Department of the Army under its contract No. DABT01-86-D-1024 with Bentley Grassing Co., Inc. for grounds maintenance at Ft. Rucker, Alabama. Fowler argues that the options should not be exercised because the option prices it offered were lower than Bentley's.

We dismiss the protest because the decision whether to exercise an option is a matter of contract administration not within the scope of our Office's bid protest function.

This protest has its origins in a prior protest by Fowler which we considered and denied earlier this year. A. J. Fowler Corp., B-224156, Jan. 8, 1987, 87-1 C.P.D. ¶ \_\_\_\_\_. As we explained in that decision, after two successive contracts for mowing services had been terminated for default, the contracting officer solicited oral quotations from the four remaining bidders to the original solicitation, including Fowler. In our January 8 decision, we denied Fowler's protest of the contracting officer's decision to reprocure these services through a competition among these four bidders, instead of making award to Fowler as the next low bidder under the original solicitation.

At the time of the reprocurement, 7 months remained in the 1986 mowing season. According to the contracting officer's statement filed with our Office in conjunction with Fowler's earlier protest and provided to it as part of the agency report:

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"Negotiations were conducted on the same terms, conditions and specifications of [the initial solicitation] with new quantities specified for the remaining base period. This solicitation included evaluation procedures [pursuant to which] [award was based on the lowest evaluated offer for both the basic seven month period and two option years. Paragraph M3 of the solicitation clearly states that option years would be evaluated. Final offers received were:

- a. Bentley Grassing Co., Inc. \$1,910,933.25
- b. A. J. Fowler Corp. \$2,046,373.08

. . . Mr. Fowler gave his final offer on the repurchase negotiation as \$697,965.94, wherein he wanted the same price for the seven months remaining as he bid for the initial 12 months requirement. His option prices remained unchanged. Total evaluated amount of A. J. Fowler Corp. was \$2,046,373.08 which was \$135,439.83 more than the evaluated total of Bentley Grassing Co., Inc."

This statement by the contracting officer was supported by price negotiation memoranda, also part of the record in the prior protest, which shows the prices given above were broken down as follows:

<u>Ridder</u>	<u>Base Period</u>	<u>1st Option Year</u>	<u>2d Option Year</u>	<u>Total</u>
Fowler	\$697,965.94	\$674,203.57	\$674,203.57	\$2,046,373.08
Bentley	\$292,633.61	\$809,149.82	\$809,149.82	\$1,910,933.25

Fowler alleged that the contracting officer did not solicit an oral quotation from it for the defaulted services. We found this allegation to be unsupported by the record which, we concluded:

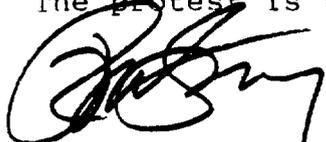
" . . . indicates that Fowler, as well as the other remaining bidders to the original solicitation, were treated equally in that they were given an opportunity to submit quotations for the remaining work and that the procuring activity repurchased the mowing services on the basis of the lowest evaluated offer."

Since Fowler did not request reconsideration of our January 8 decision, showing that it contained errors of law or fact, we think it appropriate to rely on that decision and the record on which it is based in our consideration of Fowler's current protest.

As can be seen from the above tabulation, if only the base period is considered, Bentley is low by \$405,332.33. If only the two option years are considered, Fowler is low by \$134,946.25 per year or a total of \$269,892.50. When the prices for the base period plus both option years are evaluated, however, Bentley is low by \$135,439.83, and it was on that basis that it was awarded the contract. The record in this case, which we have quoted above, indicates that Fowler lost this competition essentially because it insisted on being paid the same amount for the remaining 7 months in the base period as it had initially bid for the entire 12-month period.

In the current protest, Fowler objects to any exercise of the options in Bentley's contract on the basis that Fowler's option year prices were lower. This ignores the facts, established in our earlier decision, that Fowler participated in, and lost, a competition in which quotations for both the base and option periods were evaluated on which basis Bentley's quotation was the lowest. Fowler cannot now re-visit this competition by ignoring that portion of its price quotation on which it was high, by a considerable amount, and focusing exclusively on that portion of its quotation which was lower than its competitor's. The current protest is no more than an objection to the agency's decision to exercise an option, which is a matter of contract administration not within the scope of our Office's bid protest function. See G & L Oxygen and Medical Supply Services-- Request for Reconsideration, B-221631.2, Jan. 30, 1986, 86-1 C.P.D. ¶ 123.

The protest is therefore dismissed.



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