

70
Timmerman



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Pool's Moving and Storage

File: B-233563

Date: February 10, 1989

DIGEST

The inclusion of two 1-year options in a solicitation for transportation and storage services is proper where the agency determines in accordance with the applicable regulation that it anticipated a need for the same services in the future.

DECISION

Pool's Moving and Storage protests the requirement that bidders submit prices for two 1-year options in invitation for bids (IFB) No. F04604-88-B-0033 issued by Castle Air Force Base, California, for the transportation and storage of personal property and related services. It argues that the options place undue risk on the contractor.

We deny the protest.

It is Pool's position that the Air Force's inclusion of the options in the IFB is improper because their use will cause the contractor to incur undue risks. Pool's maintains that the use of the options does not allow contractors to prepare bids based on annual changes in various operational costs such as fuel, labor, supplies, and insurance. Pool points to the changing state of insurance in California as evidence that operational costs are unpredictable. According to Pool's, the use of the options will therefore limit competition and result in higher bids.

The Air Force responds that the use of options is appropriate here because of the need for continuing service beyond the basic contract period and the potential cost of disrupted operations. Although the Air Force admits that it has procured these services in the past by issuing yearly solicitations, it states that after a review of the

044599/137928

requirement, it determined that the use of options would be more advantageous considering procurement leadtimes, agency personnel turnover and experience, and cost to the government. For the reasons cited below we do not find the agency's use of options in this procurement to be improper.

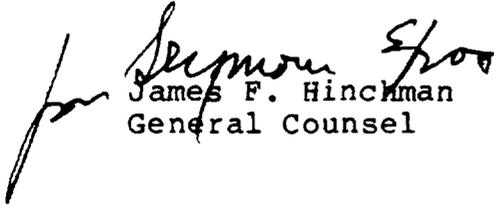
The regulations provide that contracting officers may include options in service contracts if there is an anticipated need for a similar service beyond the first contract period. Federal Acquisition Regulation (FAR) § 17.202(d); see Key Air, B-227893, Aug. 20, 1987, 87-2 CPD ¶ 188. Here, the agency made the requisite determination to include the option because it anticipated the need for services beyond the current year due to the constant relocation of military personnel at the base. We do not believe Pool's concern with unstable insurance and other operational costs is relevant to a determination to use an option in a service contract like the one involved here. The only requirement in the regulations is that the agency anticipate a need for similar services in the future. The agency did so and protester does not dispute this. In any event, the risks cited by the protester appear to fall well within the normal type of risks associated with bidding; agencies are not obligated to eliminate these risks. See Triple P Services, Inc., B-220437.3, Apr. 3, 1986, 86-1 CPD ¶ 318. In fact, as far as labor costs are concerned, the IFB contains the clause set forth at FAR § 52.222-43 entitled, "Fair Labor Standards Act and Service Contract Act - Price Adjustment (Multiyear and Option Contracts)," which provides for the adjustment of the contract price if there are increases in Department of Labor wage rates at the renewal of each option period.

Consequently, we do not find that the use of the options unduly restricts competition; the agency has established that their use is reasonably related to its needs and the protester has not shown otherwise. See Microwave Radio Corp., B-227962, Sept. 21, 1987, 87-2 CPD ¶ 288.

The protester suggests that we conduct a "study" or investigation to determine whether other installations have properly included option provisions in their contracts for similar services before we approve of the agency's action here. We do not, under our bid protest function, conduct investigations or "studies" to determine the validity of a protester's position. See Burrell Maier, B-232086 et al., Aug. 2, 1988, 88-2 CPD ¶ 112. In any event, the fact that another installation's needs may not justify the inclusion

of options does not necessarily mean that the inclusion of options is not justified under the circumstances of this procurement. See Channel Disposal Co., Inc., B-215486, Aug. 17, 1984, 84-2 CPD ¶ 191.

The protest is denied.

 Seymour Spoo
James F. Hinchman
General Counsel