



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Western States Management Services, Inc.

File: B-235956.2

Date: December 7, 1989

DIGEST

Low bid is not materially unbalanced, and thus not subject to rejection as being nonresponsive, where the agency expects to exercise the option quantities, and the record contains no basis for concluding that low bidder would not offer the lowest ultimate cost to the government.

DECISION

Western States Management Services, Inc., protests the proposed award of a contract to Renaissance Exchange, Inc., under invitation for bids (IFB) No. F29651-88-B-0069, issued by the Air Force for food service attendant services at Holloman Air Force Base, New Mexico. The protester contends that Renaissance's bid is nonresponsive because it is mathematically and materially unbalanced.

We deny the protest.

On November 7, 1988, the agency issued the solicitation for items and services necessary to provide food service for a 9-month base period plus two 1-year options. The solicitation provided for award of a firm, fixed-price contract with an award fee provision, to the lowest responsible and responsive bidder and incorporated by reference the clause at Federal Acquisition Regulation § 52.217-5 (APR 1984), providing for evaluation of options and allowing rejection of bids that were unbalanced as between the base and option periods.

The agency received 25 bids, which were opened on May 22, 1989. The protester submitted the low bid, but requested correction, based upon a mistake in the bid. After the agency granted this correction, Renaissance's overall bid was lower, although the protester's base period bid remained

lower than Renaissance's base period bid. The following is a summary of the prices received (items AA through AL):

<u>Bidder</u>	<u>Base Year</u>	<u>1st Option Year</u>	<u>2nd Option Year</u>
Western	\$675,179	\$663,179	\$663,179
Renaissance	\$780,000	\$612,000	\$516,000

On August 3, Western filed a protest with the agency against the decision to accept Renaissance's bid. The agency denied this protest on August 25, and this protest followed.

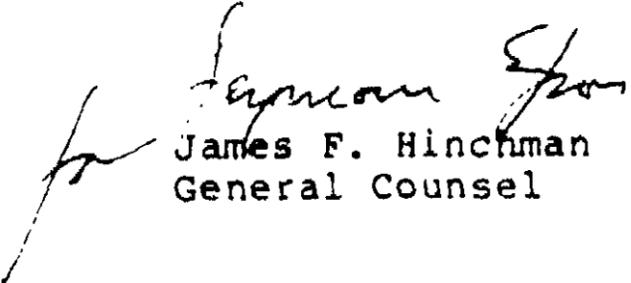
The protester argues that Renaissance's bid is materially unbalanced. The protester states that the firm allegedly admitted to the agency to having submitted a high base year bid "to provide operating capital at the outset, and to avoid having to borrow money from a lending institution at 12 or 13% interest." The protester objects to the agency's acceptance of this justification, which in the protester's view, establishes that an award to Renaissance, at an allegedly inflated base year price, amounts to an improper advance payment for services. See 31 U.S.C. § 3324 (1982).

In response, the agency declares its belief that the costs of relocating management personnel and establishing a base of operations in New Mexico do necessitate an initial investment during the base period that accounts for Renaissance's high base period price. The agency explains that in its response to the protester's agency-level protest, quoted above by the protester with reference to the Renaissance's desire to avoid borrowing money, it did not mean to imply that the costs involved were not in fact allocable to the base period.

Except where a bid contains extreme front-loading, our analysis of whether bids are materially unbalanced between base and option years has hinged upon whether the agency reasonable anticipates exercise of the option. Robertson & Penn, Inc., B-234082, Apr. 10, 1989, 89-1 CPD ¶ 365. From the materials submitted by the protester and the record before us, we find no basis to doubt that the agency will exercise options for the full anticipated term of the contract. The agency advises that the amount and scope of food service attendant services at Holloman AFB have not changed since they first went under contract, and there is no reason to expect a change in the next 3 years. Rather, the record shows that the need for food service is stable and continuous.

To the extent that the protester predicts that Renaissance will deliberately perform badly, in order to avoid an option exercise, the contracting officer reports that prior to award, she spoke to several installations that have obtained such services from Renaissance and finds that the firm's performance history has been excellent. We note, furthermore, that the contract award fee provisions would appear to provide the necessary incentive for a contractor to perform well. The record therefore contains no reason to doubt that the agency will exercise the options or that Renaissance's bid will ultimately provide the lowest cost to the government.

The protest is denied.


James F. Hinchman
General Counsel