



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Kdisc, Division of Keysor Century Corporation
File: B-240850
Date: August 24, 1990

Richard B. Oliver, Esq., and Martin A. Rips, Esq., McKenna, Conner & Cuneo, for the protester.
Catherine M. Evans, Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest alleging that bid is unbalanced is dismissed for failure to state a valid basis for protest where the protester fails to provide either allegations or evidence sufficient to establish the likelihood that bid in fact is mathematically and materially unbalanced.

DECISION

Kdisc, a division of Keysor Century Corporation, protests the award of a contract to Westwood One, Inc. under invitation for bids (IFB) No. MDA902-90-B-0012, issued by the Armed Forces Radio and Television Service for various services related to production of record discs. Kdisc alleges that Westwood's bid is both mathematically and materially unbalanced and should be rejected.

We dismiss the protest.

The bid schedule in the IFB contained 23 line items representing the various tasks associated with pressing and packaging record discs. For each line item, bidders were advised of the agency's estimated requirements and were requested to submit unit prices for a base year and each of 4 option years. Westwood submitted the apparent low bid of \$1,139,996.84; Kdisc, the only other bidder, bid \$1,505,767.80. Kdisc alleges that Westwood's bid is mathematically unbalanced because it offers nominal prices for some items and enhanced prices for other items. Kdisc further alleges that Westwood's bid is materially unbalanced in that a reasonable doubt exists that acceptance of Westwood's bid will ultimately result in the lowest cost to the government.

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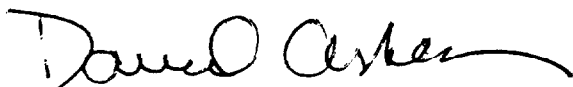
Before a bid can be rejected as unbalanced, it must be found both mathematically and materially unbalanced. A bid is mathematically unbalanced where it is based on nominal prices for some of the items and overstated prices for other items. Where there is a reasonable doubt that acceptance of a mathematically unbalanced bid will result in the lowest overall cost to the government, the bid is materially unbalanced and cannot be accepted. OMSERV Corp., B-237691, Mar. 13, 1990, 90-1 CPD ¶ 271.

While Kdisc asserts that Westwood offered nominal prices for several line items, it alleges an overstated price with respect to only one line item, for which Westwood's price exceeded Kdisc's price by "almost 20 percent." Kdisc's argument is based on a simple comparison of Westwood's prices with its own. As we have previously recognized, however, comparison of a competitor's prices with one's own prices does not by itself establish price enhancement or that a bid is unbalanced. Id.

Furthermore, even if Westwood's bid were mathematically unbalanced, Kdisc has failed to offer evidence showing that the bid is materially unbalanced. Kdisc states that "Westwood has taken a gamble that AFRTS will not be in a position to take advantage of the items on which Westwood has bid below cost." Kdisc, however, has not specifically challenged the IFB's estimated quantities for any line item, nor has it offered any other evidence that the agency may deviate from its estimated quantities. We therefore have no basis to question whether award to Westwood would result in the lowest overall cost to the government. See Allstate Van & Storage, Inc., B-238320, Apr. 26, 1990, 90-1 CPD ¶ 431. Indeed, Kdisc has alleged that Westwood overstated the price of only one line item; the price differential between the two bids for that line item over the potential 5 years of the contract ranged from \$1.70 to \$2.30; at the estimated quantity of 7,540 units, this amounts to only \$15,155.40. Even if we assume that the agency's actual requirements exceed the estimated quantity for the item, there appears no reason to believe that, given the \$365,000 difference between the two bids, any likely requirement for additional units would render award to Westwood more costly than award to Kdisc.

Our Bid Protest Regulations contemplate that protesters will provide, at a minimum, either allegations or evidence sufficient, if uncontradicted, to establish the likelihood

of the protester's claim of improper agency action.
Professional Medical Products, Inc., B-231743, July 1, 1988,
88-2 CPD ¶ 2. As Kdisc has failed to establish a likelihood
that Westwood's bid is unbalanced, the protest is dismissed
for failure to state a valid basis for protest.

A handwritten signature in cursive script, appearing to read "David Ashen".

David Ashen
Deputy Assistant General Counsel