

J. Hasfurther



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Valentec Wells, Inc.

File: B-239498

Date: August 29, 1990

James V. Card for the protester.

Judy Sukol, Esq., and David C. Defrieze, Esq., Department of the Army, for the agency.

David Hasfurther, Esq., Robert C. Arsenoff, Esq., and John Brosnan, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

In deciding to obtain a small quantity of ammunition links by exercising an existing contract option, agency properly determined on the basis of an informal market analysis that the option price was likely the lowest available for the quantity, notwithstanding the fact that the protester's basic contract price under a recently awarded contract for the items was slightly lower in price, since that price was based on a very large quantity of links and the protester's option quantity was priced higher.

DECISION

Valentec Wells, Inc. protests the exercise of an option for 213,312 M14A2 ammunition links under contract No. DAAA09-89-C-0185 (contract 0185), which was awarded on February 24, 1989, to Greene International West, Inc. by the Department of the Army. The protester principally contends that the agency should have competed the option requirements because, at the time the option was exercised, the Army allegedly knew it could obtain a lower price from Valentec.

We deny the protest.

On January 31, 1990, the Army awarded contract No. DAAA09-90-C-0284 (contract 0284) to Valentec for approximately 4 million ammunition links at a basic price of \$.29 per unit with an option for additional quantities priced at \$.31 per unit. Contract 0284 called for the first option deliveries no sooner than May 1991.

On March 20, the Army received an additional requirement for 213,312 M14A2 links. At that time, the agency had contract 0185 with Greene with an option price of \$.305 per unit; the contract had been awarded in 1989 on the basis of Greene's lower price in a limited competition with the protester--the only other industrial base mobilization producer of the links.

On April 12, following a determination that Greene's available option price of \$.305 per unit was reasonable, the Army determined that an exercise of the option under contract 0185 was the most advantageous method of procuring the links then needed by the government, and Greene's contract was modified accordingly.

In its protest, Valente^c argues that the Army violated Federal Acquisition Regulation (FAR) § 17.207(d)(1) by failing to issue a new solicitation to test the market for the links prior to exercising Greene's option, at a time when the agency knew that the protester had been awarded contract 0284 for the same items at a basic price of \$.29 per unit.^{1/}

In response, the Army reports that its decision to exercise the option under Greene's existing contract at \$.305 per unit was based on price considerations and other factors, as permitted by FAR § 17.207, governing the exercise of options. With respect to price, the agency notes that it did in fact perform an informal analysis of the market to determine whether the option was most advantageous to the government in accordance with FAR § 17.207(d)(2). That analysis included consideration of the fact that Valente^c's contract price of \$.29 per unit was based on a quantity of approximately 4 million links and noted that Valente^c's option price of \$.31 per unit under contract 0284 was higher than Greene's option price. Moreover, the Army states that it would likely be uneconomical to issue a solicitation for only 213,312 links since the last time a quantity of less than 500,000 was competed, the resulting price was \$.70 per unit.

^{1/} Valente^c also has cast its arguments in terms of a failure to obtain full and open competition under FAR Part 6 and a failure to assure adequate price competition and perform an adequate price analysis under FAR subpart 15.8. These arguments are misplaced because they relate to requirements concerning contract award and not the exercise of options.

The Army also considered the fact that Greene was ready to perform immediately insofar as its deliveries under contract 0185 had been completed while, in Valente's case, first article testing had yet to be completed and deliveries under its option would not commence for over 1 year. Finally, the agency noted that one effect of exercising Greene's option would be to continue to maintain two industrial mobilization base producers of the M14A2 links.

With regard to its argument that the agency failed to properly test the market, the protester notes that it has sometimes in the past held to its base price when asked to extend it to option quantities and suggests that it would have done so in this case if it had been contacted by the Army. Valente also variously takes issue with the agency's conclusions with regard to delivery risk and the maintenance of an adequate mobilization base and offers its own opinions on these matters.

Our Office generally will not question the exercise of an option unless we find that the regulations were not followed or that the agency's determination to exercise the option, rather than conduct a new procurement, was unreasonable.

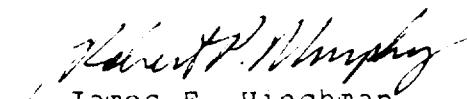
Kollsman Instrument Co., 68 Comp. Gen. 303 (1989), 89-1 CPD ¶ 243. The intent of the regulations concerning the exercise of options is not to afford a firm that offered high prices under an original solicitation an opportunity to remedy this business judgment by undercutting the option price of the successful offeror. ISC Defense Sys., Inc., B-224564, Feb. 17, 1987, 87-1 CPD ¶ 172. While it may be appropriate in certain circumstances for a contracting officer to contact all available sources to determine whether an option price is most advantageous, such a procedure is not mandated by regulations, and we note that the FAR grants contracting officers wide discretion in what constitutes a reasonable check on prices in the market. Kollsman Instrument Co., 68 Comp. Gen. 303, supra. Further, a contracting officer is not required to test the market by resoliciting before exercising an option merely because a competitor guarantees a lower price after the option exercise, where option prices have already been tested in a competition in which that firm participated. Such a firm is not entitled to a second chance merely by its promise to offer a lower price. Ia.

In this case, the agency considered what prices were reasonably available to it for the 213,312 additional links that were needed. There was no guarantee whatsoever that Valente would hold to its basic contract price of \$.29 for such a small option quantity and both its current contract option price and the option price it previously bid in

competition with Greene were in fact higher than Greene's price of \$.305.

It was reasonable for the agency based on the past procurement history concerning small quantities of links to conclude, as it did, that a new solicitation would likely result in much higher prices than those afforded by Greene's contract, and that a new solicitation was, therefore, likely to be an uneconomical exercise. Since, in our view, price considerations reasonably support the agency's decision here, we need not consider separately the protester's arguments concerning the mobilization base aspects of the agency's justification.

Accordingly, the protest is denied.



in
James F. Hinchman
General Counsel