



**Comptroller General  
of the United States**

Washington, D.C. 20548

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## **Decision**

**Matter of:** American Housekeepers  
**File:** B-240150.2  
**Date:** December 3, 1990

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J.L. Martin, Jr., for the protester.  
Capt. P. Alan Luthy, and Lt. Col. Gerald M. Lawler, Department  
of the Air Force, for the agency.  
Charles W. Morrow, Esq., and James A. Spangenberg, Esq.,  
Office of the General Counsel, GAO, participated in the  
preparation of the decision.

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### **DIGEST**

The apparent low bid on a contract for a 3-month base period and three 1-year options properly was determined to be materially unbalanced where there is an unexplained price decrease for the final option period, the bid would not become low until the fifth month of the final option period, and there is reasonable doubt that acceptance of the bid would result in the lowest overall cost to the government because the government determined that it was likely that the final option period may not be exercised due to funding uncertainty.

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### **DECISION**

American Housekeepers protests the rejection of its bid as materially unbalanced under invitation for bids (IFB) No. F41622-90-B0020, a total small business set-aside, issued by the Department of the Air Force, Brooks Air Force Base, Texas, for custodial services.

We deny the protest.

The IFB provided for the award of a 3-month base period from July 1, 1990, to September 30, 1990, with three 1-year option periods. The IFB advised bidders that the government would make award to the lowest priced responsible bidder for the base requirement and all options, but that the government may reject a bid as nonresponsive if materially unbalanced as to prices for the basic requirement and the option quantities.

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At bid opening on June 20, 1990, the Air Force received 36 bids. The four lowest bids were submitted by American, Alpha Maintenance, Inc. (AMI), Western Work Pool, Inc. (WWP) and BPA Building Services (BPA) whose bid prices were:<sup>1/</sup>

	<u>Base Period</u>	<u>OP YR 1</u>	<u>OP YR 2</u>	<u>OP YR 3</u>	<u>TOTAL</u>
American	\$134,119	486,845	441,560	339,655	1,402,179
AMI	\$122,300	456,578	435,662	435,662	1,450,202
WWP	\$129,995	479,569	479,569	479,569	1,568,703
BPA	\$130,977	486,994	498,092	513,304	1,629,368

On July 3, 1990, the Air Force received an agency-level protest from WWP against any award to American on the ground that American's bid was materially unbalanced. Following review of WWP's protest and American's bid, the Air Force, on July 9, 1990, requested American to provide it with the rationale for its pricing strategy regarding the base period and option years. On that same date, American advised that its pricing strategy was based upon expending large sums of money for equipment, supplies, vehicles, and insurance in advance of start-up contract services. American further advised that since there were no guarantees that the government would exercise any contract options, it believed that its up-front investment of funds was a calculated gamble on receiving option awards and that it was attempting to recoup its investment as early as possible. However, American refused to provide additional cost information in support of its pricing strategy despite being requested to do so by the Air Force.

On July 18, the Air Force determined American's bid to be nonresponsive because it was materially unbalanced. In this regard, the Air Force found that American's bid did not become lower than that of the next lowest bidder until the final option period, and there was a possibility that the government may not exercise all the options. This protest to our Office followed on July 24.

The contracting officer's decision to reject the bid of American as materially unbalanced was proper if: (1) the bid was in fact mathematically unbalanced, and (2) the contracting officer had a reasonable doubt whether the award to American would result in the lowest overall cost to the government. Professional Waste Sys., Inc.; Tri-State Servs. of TX, 67 Comp. Gen. 68, 87-2 CPD ¶ 477; Howell Constr., Inc., 66 Comp. Gen. 413, 87-1 CPD ¶ 455. A bid is materially unbalanced if the bid is structured on the basis of nominal

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<sup>1/</sup> Figures are rounded.

prices for some work and inflated prices for other work such that each element of the bid does not carry its appropriate share of the total cost of the work plus profit. Id. With regard to service contracts that involve the evaluation of a base period and option periods, as is the case here, we have found that a bid may be deemed mathematically unbalanced if, in terms of the pricing structure evident among the base and option periods, it is neither internally consistent nor comparable to the other bids received. See Howell Constr., Inc., 66 Comp. Gen., supra. Thus, a large pricing differential existing between the base and option periods, or between one option period and the others, is itself prima facie evidence that the bid is mathematically unbalanced. Id.

Here, the record reveals that American's pro rata monthly price for the final option period was 23 percent lower than the pro rata monthly price for the preceding option period and was 58 percent lower than the pro rata monthly price for the initial base period. Further, the record indicates that the other bidders' prices and the government estimate for the base year and each option year remained basically the same or increased somewhat for the later year options.

While American did offer what it considered to be a reasonable explanation for its pricing strategy, the Air Force reports that it was not persuaded that the protester had adequately justified its pricing merely on the basis of start-up costs. For example, the Air Force reports that this rationale may have been viewed more favorably if the prices dropped off after the base period or the first option period and then leveled off. Instead, American's bid price substantially decreased for just the last option year. The Air Force reports that a service contract, such as this, generally does not require the initial expenditure of large sums of money and American, when requested, refused to provide any additional information in support of its pricing.<sup>2/</sup>

American argues that the Air Force has not demonstrated by irrefutable evidence that its prices were either nominal or

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<sup>2/</sup> In this regard, the Air Force reports that the majority of costs under the contract are labor costs, which are fixed by the Service Contract Act and that American has proposed to employ the incumbent's employees, thereby reducing most transition costs. Moreover, the Air Force indicates that it is unlikely that the items to be supplied by the contractor would justify inordinate start-up costs because supplies can be used throughout the contract from period to period, and vehicle and insurance expenses should accrue relatively evenly over the contract term. Such costs should generally increase slightly as time passes due to inflation.

enhanced, which is necessary to show that a bid is mathematically unbalanced. In this regard, American states that developing costs in a custodial contract is very subjective without any set formula, thus making it difficult for anyone to determine with any certainty whether its prices are mathematically or materially unbalanced.

However, as indicated above, American's bidding pattern of offering relatively consistent pricing, except for the last option year is prima facie evidence that its bid is mathematically unbalanced. Thus, the agency need not produce further evidence to show mathematical unbalancing, particularly since American refused to provide the more specific details of its pricing strategy when requested by the Air Force to do so.<sup>3/</sup> Indeed, we give little weight to a firm's stated business reasons for pricing a final option year much lower than the preceding option period where the firm has failed to explain why its bid should be viewed as mathematically balanced in face of the radically different option year pricing patterns evident in the other bids. See Howell Constr., Inc., 66 Comp. Gen., supra; G.L. Cornell Co., B-236930, Jan. 19, 1990, 90-1 CPD ¶ 74. Therefore, we find that American's bid is mathematically unbalanced, since it was both internally inconsistent and not comparable to the other bids received, and since American has provided no persuasive explanation to the contrary.

The remaining question is whether American's mathematically unbalanced bid is also materially unbalanced such that an award to American might not result in the lowest overall cost to the government. In this connection, we focus our analysis on various factors, including whether the government reasonably expects to exercise the options; circumstances suggesting that some or all of the options will not be exercised gives rise to a reasonable doubt that an unbalanced bid will result in the lowest cost to the government. G.L. Cornell Co., B-236930, supra.

Here, American's bid would not become the lowest compared to the next lower bid until the fifth month of its final option period. Moreover, the Air Force reports that although the custodial services were based upon requirements that were current at the time it drafted the IFB, there is now a substantial likelihood that the contract may be cut short or descope in some way. The Air Force indicates that because of the end of the cold war, funding for the Air Force is quite uncertain and large cut backs and consolidations are anticipated, which casts considerable doubt on whether the projected savings contained in American's bid will be realized

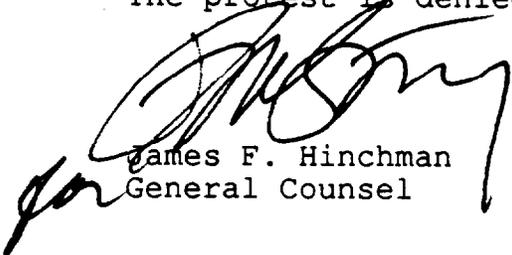
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<sup>3/</sup> American has still declined to provide this information.

by the government. Because of the Air Force's legitimate concern about funding and because American's bid would not become low until the final option period, we find that the agency reasonably concluded that American's bid may not result in the lowest cost to the government. See G.L. Cornell Co., B-236930, supra; Professional Waste Sys., Inc.; Tri-State Servs. of TX, 67 Comp. Gen., supra. Therefore, we find that the Air Force properly determined American's bid to be materially unbalanced and thus nonresponsive.

American states that the agency's actions circumvent the IFB's announcement that option prices would be evaluated. However, we find nothing unusual or improper in the agency's initial decision to evaluate options and its subsequent position that the options may not be exercised. See G.L. Cornell Co., B-236930, supra. Moreover, the IFB advised that materially unbalanced bids would be rejected.

The protest is denied.



James F. Hinchman  
General Counsel