Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Government Leasing Corporation

File: B-245939

Date: January 27, 1992

Gilbert J. Ginsburg, Esq., and Constance A. Wilkinson, Esq.,
Epstein Becker & Green, for the protester.
Herbert K. Kelley, Jr., Esq., and Major Bobby G.
Henry, Jr., Department of the Army, for the agency.
Linda S. Lebowitz, Esq., and Michael R. Golden, Esq., Office
of the General Counsel, GAO, participated in the preparation
of the decision.

DIGEST

Apparent low bid was properly rejected as mathematically and
materially unbalanced where the bid, which is for a constant
level of services for the base year and 2 option years,
includes a substantially front-loaded base year price to
cover equipment costs, and does not become low until the
10th month of the second option year, thereby raising a
reasonable doubt that the bid would result in the lowest
actual cost to the government.

DECISION

Government Leasing Corporation (GLC) protests the rejection
of its apparent low bid as unbalanced under invitation for
bids (IFB) No. DABT51-91-B-0018, issued by the Department of
the Army for the lease and maintenance of a quantity of
washers and dryers at Fort Bliss, Texas. GLC argues that
its bid was improperly rejected as unbalanced.

We deny the protest.

The amended IFB, issued on June 14, 1991, contemplated the
award of a firm, fixed-price contract for the base year and
2 option years. The IFB contained the provision at Federal
Acquisition Regulation (FAR) § 52.217-5 which stated that
the government would evaluate bids for award purposes by
adding the total price for all options to the total price
for the basic requirement. The IFB also incorporated the
provision at FAR § 52.214-10 which advised that the
government could reject a bid as nonresponsive if the prices
were materially unbalanced between line items. As defined

by that section, a materially unbalanced bid is one based on prices significantly less than cost for some work and prices significantly overstated for other work, provided that there is a reasonable doubt that the bid will result in the lowest overall cost to the government even though it may be the low evaluated bid.

Seven firms submitted bids by bid opening on September 5. GLC, the apparent low bidder, and DGS Contract Services, Inc., the apparent second low bidder, submitted the following prices:

	GLC	DGS
Base Year	$191,712	$123,864
First Option Year	$ 97,968	$123,864
Second Option Year	$ 70,752	$123,864
TOTAL	$360,432	$371,592

On September 5, DGS filed an agency-level protest alleging that GLC's bid was unbalanced. In response to DGS' agency-level protest, the contracting officer determined that the large differential between GLC's base and option years prices indicated that GLC front-end loaded its base year price. The contracting officer also determined that GLC's bid for the combined base and option year periods would not become low until the 10th month of the second option year. The contracting officer therefore rejected GLC's apparent low bid as mathematically and materially unbalanced, and on September 26, awarded a contract to DGS. On September 30, GLC filed this protest. GLC argues that the agency improperly rejected its apparent low bid as unbalanced because its pricing structure is reasonably related to and consistent with its actual costs of performance, including its substantial equipment acquisition costs.

In determining whether a bid is unbalanced, the bid first must be evaluated mathematically to determine whether each item carries its share of the cost of the work specified for that item as well as overhead and profit. If the bid is based on nominal prices for some of the work and enhanced prices for other work, it is mathematically unbalanced. The bid then must be evaluated to determine whether award to a bidder that has submitted a mathematically unbalanced bid will result in the lowest overall cost to the government. If there is reasonable doubt that award to a party that submits a mathematically unbalanced bid will not 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.
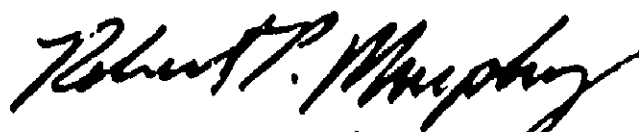
Here, GLC's base year price of $191,712 is 95 percent higher than its first option year price of $97,968 and 170 percent higher than its second option year price of $70,752. In a recent, factually similar case, Westbrook Indus., Inc., B-245019.2, Jan. 7, 1992, 71 Comp. Gen. ___, 92-1 CPD ¶ ___, we held that where the level of services remained constant and where the protester's base year price was 80 percent higher than its first option year price and 125 percent higher than its second option year price, the protester's bid clearly was mathematically unbalanced because of the large price differential between the base and option periods.

GLC asserts that each of its bid items carries its share of the cost of the work plus profit. GLC's explanation for its pricing methodology--that the method by which it distributed its acquisition costs, principally depreciation, was in accordance with generally accepted accounting principles which, from a tax and accounting perspective, allows GLC to recover the greatest portion of its acquisition costs in the base year--is no more than an admission by GLC that it submitted a front-loaded bid that is not based on each item carrying its proportionate share of the cost. In this respect, GLC's bid shows that GLC allocated a disproportionately high percentage of its acquisition costs in the base year by using an accelerated depreciation formula. GLC also makes no claim that it would have no use for the washers and dryers if the options were not exercised. In cases like this--where the contractor presumably would have a use for its equipment following contract performance--equipment and start-up costs are expected to be apportioned over the evaluated contract period, including the option periods. Westbrook Indus., Inc., supra.

Although GLC may have had some legitimate business reason for structuring its bid as it did, such a rationale is immaterial to the acceptability of its bid where the agency obtains reasonably priced bids from responsible firms that are willing to accept the risks inherent in pricing each element of their bid to carry its proportionate share of the total cost of the work. See Howell Constr., Inc., 66 Comp. Gen. 413 (1987), 87-1 CPD ¶ 455; Crown Laundry and Dry Cleaners, Inc., B-208795.2; B-209311, Apr. 22, 1983, 83-1 CPD ¶ 438. GLC, by pricing its bid the way it did, has attempted to shift from itself to the government the risk that contract performance might not extend to 3 years. The government is under no obligation to accept that risk since other bidders, such as DGS, have accepted that risk and evidently structured their bids in light of it. Accordingly, under these circumstances, we think the contracting officer properly could view GLC's bid as mathematically unbalanced.

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We also agree that GLC's bid is materially unbalanced. Where there is reasonable doubt that acceptance of a mathematically unbalanced bid would result in the lowest overall cost to the government, the bid is materially unbalanced and cannot be accepted. OMSERV Corp., supra. Despite an agency's initial intent to exercise all options, intervening events could cause the contract not to run its full term, resulting in inordinately high costs to the government and a windfall to the bidder. Here, GLC's bid does not become low until the 10th month of the second option year if both options are exercised. Thus, we think the agency had sufficient reason to doubt that GLC's bid actually would provide the lowest overall cost to the government. See Westbrook Indus., Inc., supra; Crown Laundry and Dry Cleaners, Inc., supra.

The protest is denied.

James F. Hinchman
General Counsel