



Comptroller General
of the United States
Washington, D.C. 20548

Lebowitz
145239

Decision

Matter of: HFS Inc.

File: B-246018

Date: February 7, 1992

Thomas K. David, Esq., for the protester.
Ned W. Livornese, Esq., for Level 6 Systems, Inc., an interested party.
Joseph M. Goldstein, Esq., and Capt. Margo A. Stone, Department of the Air Force, 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

Agency properly awarded a contract to a firm which submitted a price for only one of two line items listed in the solicitation where that firm offered the most advantageous price for the individual item and the solicitation allowed line item awards and did not specify that an aggregate award would be made.

DECISION

HFS Inc. protests the award of a contract to Level 6 Systems, Inc. under request for proposals (RFP) No. F11623-91-R-0068, issued by the Department of the Air Force for a high speed page printing system and an operating system in support of two top secret mainframe computers. HFS argues that Level 6's offer should have been rejected as unacceptable.

We deny the protest.

The solicitation, issued on August 7, 1991, required firms to submit single unit prices for the following two line items: line item No. 0001--for a Honeywell page printing system and line item No. 0002--for a Honeywell operating system. The solicitation stated that award would be made to the most advantageous offeror and also included the clause found at Department of Defense Federal Acquisition Regulation Supplement (DFARS) § 252.211-7014 which provides in pertinent part that: "The Government may accept any item or group of items of an offer, unless the offeror qualifies the offer by specific limitations. . . ."

Two firms, HFS and Level 6, submitted offers by the September 6 closing date. While Level 6 submitted a price of \$158,916 for line item No. 0001, it submitted no price for line item No. 0002, explaining that the operating system was proprietary to HFS and had to be licensed by HFS. Level 6 stated that the operating system could be purchased separately off of HFS' Federal Supply Schedule (FSS) contract with the General Services Administration. HFS submitted a price significantly higher than Level 6's price for line item No. 0001 and also submitted a price for line item No. 0002.

On September 24, the agency made an award for \$158,916 to Level 6 for line item No. 0001, and with respect to line item No. 0002, determined to place a yearly order against HFS' FSS contract rather than making an award to that firm under the solicitation. On October 2, HFS filed this protest.

HFS protests that Level 6's offer should have been rejected as unacceptable. Although HFS acknowledges that multiple awards could be made under the terms of the solicitation, it maintains that because Level 6 did not submit a price for line item No. 0002, it was ineligible to receive an award for line item No. 0001. HFS believes that it was mandatory under the solicitation for a firm to submit a price for both line items in order to receive even a partial award. HFS argues that the agency should have made an award to it for line item No. 0001.¹


Here, the solicitation contained a "Single Unit Price--Negotiated" clause which called for firms to submit a "single unit price for each line item." We view this clause as prohibiting offerors from submitting multiple prices for any one line item. This clause does not require an agency to find an offeror nonresponsive because it omitted a price for one line item, and is consistent with a contemplated award on an item by item basis. We see nothing unacceptable in Level 6's offer. While Level 6 submitted a price for

¹In its protest, HFS raised two other issues essentially concerning whether Level 6's page printing system would satisfy the agency's needs. In its agency report, the agency addressed these issues by providing detailed explanations establishing that Level 6's page printing system would satisfy the agency's needs. In its comments to the agency report, HFS did not rebut the agency's response. Therefore, we deem these other issues to have been abandoned by HFS, and we will not address them. See Vanguard Research, Inc., B-242633; B-242633.2, May 30, 1991, 91-1 CPD ¶ 517.

line item No. 0001, it submitted no price for line item No. 0002 because this item was proprietary to HFS and had to be licensed by HFS. In our view, Level 6's offer was consistent with the terms of the solicitation.²

Although the solicitation stated that award would be made to the most advantageous offeror, it did not specify that an aggregate award would be made. The solicitation provided that the "Government [could] accept any item or group of items of an offer" for award purposes, language which is sufficient to establish that an award may be made on an item basis where the award clause does not also specifically require an aggregate award. See Talhott Dev. Corp., B-220641, Feb. 11, 1986, 86-1 CPD ¶ 152; Goodman Ball, Inc., B-217318, Mar. 25, 1985, 85-1 CPD ¶ 348. Award on the basis of the most favorable overall cost to the government is required where multiple awards are permitted by the solicitation and would result in the lowest overall cost to the government. Id. Thus, separate awards to different firms which are low on individual items, rather than an aggregate award, are clearly proper. In this case, Level 6 could not submit a price for line item No. 0002 because it could not supply the item. This, however, had no effect on its eligibility to receive an award for line item No. 0001 since the solicitation permitted the agency to award separate contracts on an item basis to the most advantageous offeror for the individual item. Thus, we find no reason to question the agency's award of line item No. 0001 to Level 6 at a significant cost savings.

Accordingly, the protest is denied.


James F. Hinchman
General Counsel

²In a recent decision, N.F.E., Inc., B-241460, Dec. 21, 1990, 90-2 CPD ¶ 520, a firm was properly found nonresponsive where the agency intended to make one award because of the impracticalities of the agency integrating items obtained through multiple awards, and in announcing the solicitation, described its needs for integrated items.