



Comptroller General  
of the United States

Washington, D.C. 20548

# Decision

**Matter of:** Mobile-Modular Express, Inc.

**File:** B-250790

**Date:** February 22, 1993

Kenneth L. Zuromski for the protester.  
P.E. Zanfagna, Jr., Department of the Navy, United States Marine Corps, for the agency.  
Mary G. Curcio, Esq., and John G. Brosnan, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

## DIGEST

Procuring agency properly determined, in accordance with the solicitation provision for evaluation of options, that it would not be in the government's best interest to evaluate bids for the lease of an interim childcare facility for a fourth option year where the agency determined that the facility would be needed for only 3 of the 4 option years.

## DECISION

Mobile-Modular Express protests the award of a contract to Allenhurst Industries, Inc. under invitation for bids (IFB) No. M00264-92-B-0006, issued by the United States Marine Corps for the installation, removal and lease of modular buildings at the Marine Corps base in Quantico, Virginia.

We deny the protest.

The solicitation was issued on August 10, 1992, for the lease of modular buildings to be used as an interim childcare facility pending construction of a new permanent facility. The solicitation contained line items for the installation and set up of the facility, the lease of the facility for a base year, for each of 4 option years, and the removal of the building at the end of the lease term. The solicitation required bidders to include a price for each line item. Section M-1 of the IFB stated that bids would be evaluated and award made to the low priced bidder, with prices to include all firm and option items. Section M-4 provided that "except when it is determined in accordance with FAR § 17.206(b) not to be in the Government's best interest, the Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. . . ."

The Marine Corps received 14 bids in response to the IFB by the September 21 bid opening date. The contracting officer reviewed the bids over the next few days. Before making a final award selection, he contacted personnel responsible for the construction project for the permanent child care center because he knew that there were ongoing budget discussions concerning the permanent and temporary child care facilities. At this time, he learned that the permanent facility would be completed by the end of the lease for the third option year and that once the permanent facility was completed and occupied there would be no requirement, or funding available, for the interim facility. Based on this information, the contracting officer concluded that the Corps no longer needed to lease the interim facility for the for the fourth option year. He determined that it was not in the government's best interest to evaluate prices for the fourth option year, and this determination was approved at a level above the contracting officer.

Subsequently, the contracting officer evaluated bids on the basis of installation and removal of the facility and lease of it for the base year and 3 option years. The contract was awarded to Allenhurst, the lowest bidder, for those requirements.

Mobile-Modular acknowledges that based on an evaluation of only 3 option years Allenhurst is the low bidder. Mobile-Modular argues, however, that the solicitation required the agency to award the contract based on the evaluation of the base year and all 4 option years. Mobile-Modular therefore complains that since it is the low bidder based on an evaluation of the base year and all option items, it is the proper awardee.

The applicable regulations provide that a solicitation calling for bidders to submit option prices must explicitly state whether the evaluation will include or exclude option prices. FAR § 17.203(b). The regulations further provide that despite a solicitation provision stating that options will be evaluated, the agency can decide not to evaluate options where it is determined that "evaluation would not be in the best interests of the Government and this determination is approved at a level higher than the contracting officer." FAR § 17.206. The determination not to evaluate options for the purposes of award may be made at any time prior to award. Foley Co., 71 Comp. Gen. 148 (1992), 92-1 CPD ¶ 47.

Here, after receiving bids for the interim childcare facility, the agency concluded that the permanent childcare facility would be completed and occupied no later than the end of the third option year. The agency further found that

since the temporary facility would no longer be needed, there would be no funding available for it. Under these circumstances, we conclude that the Corps reasonably determined not to evaluate bids for the fourth option year, and complied with the applicable regulation in making this determination. The agency properly evaluated bids for the installation and removal of the building and the lease of space for the base year and the 3 option years and awarded the contract to the low bidder for those requirements. See Foley Co., supra.

The protest is denied.

  
for James F. Hinchman  
General Counsel