



Decision

Matter of: Stanley Aviation, Inc.
File: B-256650
Date: July 14, 1994

Stanley J. Bierc for the protester.
Riggs L. Wilks, Jr., Esq. and Wendy A. Polk, Esq.,
Department of the Army, for the agency.
Jacqueline Maeder, Esq. and John Van Schaik, Esq., Office of
the General Counsel, GAO, participated in the preparation of
the decision.

DIGEST

1. The failure of the low bidder to recompute its total bid price after submitting a price revision to certain line items in response to a solicitation amendment does not render its bid nonresponsive where the bid as originally submitted and revised included prices on all line items and the omitted total can be calculated from line item prices submitted.
2. A bidder offering hourly rates below those specified in a Service Contract Act (SCA) wage determination is eligible for contract award where its bid does not evidence an intent to violate the SCA and the firm is otherwise determined to be responsible.
3. Protest that low bid should be rejected as unbalanced due to its allegedly understated bid for a portion of the contract requirements is without merit where the protester does not identify any portion of the low bid which contained overstated prices.

DECISION

Stanley Aviation, Inc. protests the award of a contract to Ace Services, Inc. under invitation for bids (IFB) No. DAK27-93-B-0064, issued by the Department of the Army for services to operate Tipton Army Airfield, at Fort Meade, Maryland. Stanley contends that the awardee's bid is nonresponsive, violates the Service Contract Act, and is unbalanced.

We deny the protest.

The solicitation, issued on September 21, 1993, contemplated the award of contract for a base year (contract line item

(CLIN) 0001) and two 1-year options (CLINs 0002 and 0003). Bidders were required to submit prices for two subCLINs for each contract period. Under subCLINs 0001AA, 0002AA, and 0003AA, bidders were required to submit a monthly and extended price to operate the airfield; under subCLINs 0001AB, 0002AB, and 0003AB, bidders were to provide an hourly and extended price for "after hours" services. Bidders also were to provide subtotals for each CLIN and a total bid price. The prices for CLINs 0001 and 0002 were to be inserted on page 1 of the bid schedule; prices for CLIN 0003 and the total bid price were to be inserted on page 2. Bidders were advised that they had to bid on all line items and that award would be made for the base year to the lowest, responsive, responsible bidder based on the evaluation of the base and option years. Bidders also were advised that the contract to be awarded would be subject to a Department of Labor wage determination issued pursuant to the Service Contract Act of 1965, as amended (SCA), 41 U.S.C. §§ 351-358 (1988).

Bid opening was scheduled for October 21 but was extended to October 25 by amendment 1, which was issued October 1 and included a revised SCA wage determination. Ace submitted its bid package on October 20, including an acknowledgment of amendment 1. Ace's initial bid was as follows:

SubCLIN	Description	Quantity	Unit	Price	Amount
0001AA	Monthly services to operate Tipton	11	Month	\$6,322	\$69,542
0001AB	Perform "after hours" services	250	Hour	\$9	\$2,250
	Total for 0001AA and 0001AB				\$71,792
0002AA	Monthly services to operate Tipton	12	Month	\$6,755	\$81,060
0002AB	Perform "after hours" services	250	Hour	\$9	\$2,250
	Total for 0002AA and 0002AB				\$83,310
0003AA	Monthly services to operate Tipton	12	Month	\$4,515	\$54,180
0003AB	Perform "after hours" services	250	Hour	\$9	\$2,250
	Total for 0003AA and 0003AB				\$56,430
	Total				\$211,532

On October 25, the agency again amended the solicitation, reducing by 1 month the base performance period and extending bid opening until November 19. A revised first

page of the bid schedule, indicating the new base performance dates, was issued with the amendment. Two additional amendments were issued; the fourth amendment extended bid opening to November 23. Ace submitted its acknowledgment of amendment 4 on November 17. On November 12, Ace submitted a bid revision with its acknowledgments of amendments 2 and 3. To revise its bid, Ace submitted only page 1 of the bid schedule--the only page reissued with amendment 2. Ace's bid revision set forth the following prices:

SubCLIN	Description	Quantity	Unit	Price	Amount
0001AA	Monthly services to operate Tipton	10	Month	\$5,970	\$59,700
0001AB	Perform "after hours" services	250	Hour	\$5	\$1,250
	Total for 0001AA and 0001AB				\$60,950
0002AA	Monthly services to operate Tipton	12	Month	\$5,970	\$71,640
0002AB	Perform "after hours" services	250	Hour	\$5	\$1,250
	Total for 0002AA and 0002AB				\$72,890

Ace did not resubmit a revised second page of the schedule with a revised total.

At bid opening, the contract specialist read Ace's total bid price of \$211,532 as submitted on October 20. The contract specialist also read Ace's two revised line item prices--\$60,950 and \$72,890 for the base year and the first option year--and Stanley's total bid of \$207,304. Upon examination of the bids, the agency noted that Ace's revised bid did not include a total price but concluded that the total bid intended by Ace could be derived by adding the sums of the two line item prices from the amended page (\$60,950 for CLIN 0001 and \$72,890 for CLIN 0002) and the price for CLIN 0003 from Ace's original bid (\$56,430). The contract specialist determined that Ace's omission of a total price was a correctable clerical error, that Ace's total price was \$190,270 and that Ace's bid was responsive.

Stanley argues that its bid of \$207,304 is the low bid since Ace never submitted a bid for \$190,270. Specifically, the protester argues that Ace submitted one bid for \$211,532, and a second, incomplete bid on only CLINs 0001 and 0002, the base period and the first option year. The protester says that because bidders were required to bid on all items, Ace's "second bid," which did not include a price for the second option period or a total price, is nonresponsive.

To be responsive, a bid must constitute an unequivocal offer to perform the exact thing called for in the solicitation such that acceptance of the bid will bind the contractor in accordance with the material terms and conditions of the solicitation. Doug Jones Sawmill, B-239996, Sept. 19, 1990, 90-2 CPD ¶ 233. Where, as here, an IFB provides that award will be made to the low aggregate bidder, a bid which fails to include a price for every item required by the IFB generally must be rejected as nonresponsive since the bidder cannot be said to be obligated to provide the item represented in the missing price. E.H. Morrill Co., 63 Comp. Gen. 348 (1984), 84-1 CPD ¶ 508; HH&K Builders, B-232140, Oct. 20, 1988, 88-2 CPD ¶ 379, recon. denied, HH&K Builders--Recon., B-232140.2, Nov. 30, 1988, 88-2 CPD ¶ 537.

Here, we believe Stanley misunderstands the bid documents submitted by Ace. Specifically, while Stanley refers to Ace's "first" and "second" bids, and argues that the second bid is nonresponsive because it does not contain a price for all line items, the record shows that on October 20 Ace submitted its bid, including prices for all six subCLINs and a total price, and on November 12 Ace revised its bid, including revised prices on four subCLINs. However, Ace did not request to withdraw or ask return of its initial bid. Instead, the revised prices for subCLINs 0001AA through 0002AB, submitted by Ace on November 12, merely replaced the original prices submitted by Ace on October 20 for those subCLINs; the prices for subCLINs 0003AA and 0003AB did not change. The awardee simply failed to recompute its total bid price on its revised bid page, which did not include a space to do so. Thus, Ace submitted only one bid and, contrary to Stanley's allegation, submitted a price for all line items.

Generally, where work is awarded as a whole to one bidder, bidders completing the schedule are bound to perform all the work required by the solicitation. Here, because all line items on Ace's bid are priced and because Ace's intended total bid is easily determined by adding these line items, we find that Ace is bound to perform all the work required and the agency properly found Ace's revised low bid to be responsive. See MKB Constr., Joint Venture, B-250413, Jan. 15, 1993, 93-1 CPD ¶ 50, recon. denied, MKB Constr., Joint Venture--Recon., B-250413.2, June 8, 1993, 93-1 CPD ¶ 441.

Stanley next argues that Ace's bid should be rejected because Ace offered wage rates lower than the wages established by the applicable SCA wage determination. The protester alleges that Ace's bid on these items constitutes "defective pricing" and violates both the SCA wage determination and a contract clause stating that the SCA

wage determination is "applicable to this contract and shall be used for pricing purposes."

Where a firm offers hourly rates below those specified in an SCA wage determination, that firm is nonetheless eligible for contract award, provided that its bid does not evidence an intent to violate the SCA and the firm is otherwise determined to be responsible. The Galveston Aviation Weather Partnership, B-252014.2, May 5, 1993, 93-1 CPD ¶ 370. A bid which does not take exception to the SCA requirements, but offers to perform at labor rates lower than those specified by the SCA is generally considered to constitute a below-cost bid and is legally unobjectionable. Solid Waste Servs., Inc., B-248200.4, Nov. 9, 1992, 92-2 CPD ¶ 327.

Here, Ace's bid did not take exception to the IFB requirement for compliance with the wage determination. As a result, Ace is obligated to pay its employees at the wage determination rates. Moreover, in response to the agency's request, Ace expressly confirmed the accuracy and validity of its bid. In addition, by awarding the contract to Ace, the Army necessarily determined that Ace is a responsible prospective contractor, Logo Sys., Inc., B-243529, July 31, 1991, 91-2 CPD ¶ 107, and Stanley has not challenged Ace's responsibility.

Stanley's suggestion that the language in the solicitation regarding the application of the SCA wage rates required that bidders bid at least these rates is without merit. In our view, the clause on which the protester relies merely informs bidders that the SCA wage determination will apply, and, contrary to Stanley's allegation, does not place a duty on bidders to bid at rates greater than the wage determination rates.

Finally, Stanley argues that Ace's bid is unbalanced and should be rejected because its price for the CLIN 0003 option is \$16,460 less than its price for the CLIN 0002 option. Before a bid can be rejected as unbalanced, it must be found both mathematically and materially unbalanced. Oregon Iron Works, Inc., B-247845, May 27, 1992, 92-1 CPD ¶ 474. A bid is mathematically unbalanced where it is based

¹In contrast, where a bidder has not agreed to be bound by the terms of the SCA, for example, where it fails to acknowledge a solicitation amendment incorporating a SCA wage determination, its bid should be rejected as nonresponsive. See Johnson Moving & Storage Co., B-221826, Mar. 19, 1986, 86-1 CPD ¶ 273.

on nominal prices for some of the items and enhanced prices for other items. OMSERY Corp., B-237691, Mar. 13, 1990, 90-1 CPD ¶ 271. A bid cannot be found mathematically unbalanced, absent evidence that it contains prices which are overstated. IMPASA Int'l. Inc., B-221903, June 2, 1986, 86-1 CPD ¶ 506. An allegation of understated prices, without any indication of overstated prices, offers no basis for concluding that an offer is mathematically unbalanced. Hughes & Smith, Inc., B-250770, Jan. 22, 1993, 93-1 CPD ¶ 60; Solid Waste Servs., Inc., *supra*. Since Stanley has neither argued nor shown that Ace's bid contains any overstated prices, its assertion that Ace's bid is unbalanced is without merit. Id.

The protest is denied.

/s/ James A. Spangenberg
for Robert P. Murphy
Acting General Counsel