

**DECISION****THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

FILE: B-186623

DATE: July 22, 1976

MATTER OF: Amos Construction Co. Inc.

61180

97884

**DIGEST:**

IFB provided spaces to insert prices for each of three items, for listed subitems, and for total bid for all items. Although award was to be based on total bid and requirement for item bids related only to statutory cost limitations, it cannot be concluded that subitem prices were irrelevant since bidders were not so advised and Government reserved right to accept any single item or combination of items. Therefore, bid in which actual total of item 1 subitems exceeded bid entered for item 1 must be rejected as ambiguous, since aggregate bid, although low as entered, was not low based on actual total, and bidder cannot be permitted to elect which price to support.

The United States Air Force has forwarded for our consideration a protest filed with it by the Amos Construction Co. Inc. (Amos) against the proposed award of a construction contract to Lewis Brothers General Contractors Inc. (Lewis Brothers) under invitation for bids (IFB) number F09607-76-09027. The protest challenges the validity of a mistake in bid determination made in connection with that solicitation.

The IFB solicited bids to furnish all plant, labor, equipment, and materials for the construction of the following three projects at Moody Air Force Base, Georgia: an ammunition area development (item 1), inert spare storage (item 2), and an ammunition maintenance facility (item 3). The Bidding Schedule appeared in part as follows:

B-186623

Item	Description	Quan	Unit	Total Cost
1	MDY 760058, Ammo Area Development:			
	a. Roads, including new 70-car parking lot and roadside parking near Bldg "A"	LS	JOB	\$ _____
	b. Electrical Distribution System:			
	(1) Primary underground distribution	LS	JOB	\$ _____
	(2) Secondary underground distribution to 5 feet from building	LS	JOB	\$ _____
	c. Water Distribution System:			
	(1) Emergency fire water distribution	LS	JOB	\$ _____
	(2) Potable water distribution	LS	JOB	\$ _____
	d. Security lighting			
	e. Well Houses:			
	(1) Fire pump houses (Bldg "E")	LS	JOB	\$ _____
	(2) Potable water pump house (Bldg "D")	LS	JOB	\$ _____
	f. Fence alteration	LS	JOB	\$ _____
	g. Sanitary sewer	LS	JOB	\$ _____
	TOTAL COST ITEM 1			\$ _____
	STATUTORY COST LIMITATION FOR ITEM 1 IS \$400,000.			

B-186623

Item	Description	Quan	Unit	Total Cost
2	MDY 760057, Inert Spare Storage:			
	a. Administrative building and walks (Bldg "A")	LS	JOB	\$ _____
	b. Munitions Handling Equipment Shop and associated parking lot (Bldg "B")	LS	JOB	\$ _____

TOTAL COST ITEM 2

STATUTORY COST LIMITATION FOR ITEM 2 IS \$400,000.

3	MDY 760056, Ammo Maintenance Facility and associated parking lot (Bldg "C")	LS	JOB	\$ _____
---	---	----	-----	----------

STATUTORY COST LIMITATION ITEM 3 IS \$400,000.

TOTAL BID ITEMS No. 1, 2, and 3, above \$ \_\_\_\_\_

The Air Force states that award was to be made on the basis of the total aggregate bid for the items.

Three bids were received. Lewis Brothers was the apparent low bidder with an aggregate bid \$700,587. Amos was second low at \$734,580. A review of the bids showed that Lewis Brothers had erred in the addition of the subitems of item 1. Lewis Brothers' entered total cost for item 1 was \$293,156, which, when added to the costs for items 2 and 3 results in the entered aggregate bid of \$700,587. However, correct addition of the subitems results in a total cost of \$348,056 for item 1, which would yield an aggregate bid for all three items of \$755,487, or \$20,907 more than Amos' bid. Lewis Brothers was requested to verify its bid, and thereupon alleged that the figure \$293,156 was correct, and that there was an error in the entry for subitem c(2). The amount entered for

B-186623

that subitem was \$61,032, but Lewis Brothers states that the amount was intended to be \$6,132, which when added to the amount entered for the other subitems results in the sum of \$293,156.

Amos objected to any award to Lewis Brothers, and by memorandum dated January 15, 1976, the Air Force decided to allow Lewis Brothers to withdraw but not to modify its bid on the basis that the amount of the intended bid could not be ascertained. Lewis Brothers protested that decision and on February 24 the Air Force, after review of copies of a scratch sheet and of worksheets submitted by Lewis Brothers, decided to allow Lewis Brothers to modify its bid by changing the amount entered for subitem c(2) to \$6,132. By letter dated May 26 the matter was forwarded to this Office for consideration.

In support of its decision that correction of Lewis Brothers' bid should be allowed, the Air Force argues that the solicitation required bid prices only for each of the three items and a single total bid. Thus, the Air Force contends that the amounts entered for subitems 1(a) through 1(g) and 2(a) and 2(b) were irrelevant. The Air Force adds that the only reason that the IFB even required bid prices for the three items was to enable the contracting officer to determine whether the statutory cost limitation for any item was exceeded.

We do not agree that the subitem prices were irrelevant as far as the bidders were concerned in the preparation of their bids. The IFB provided a space next to each subitem for entry of a price, as well as a space for the total price of each item. We find no information in the IFB apprising bidders that the subitem prices were not relevant to evaluation of the bids, or that consideration of the item prices would be only in connection with the noted statutory cost limitation for each item. The actual description of work was merely to:

B-186623

"FURNISH ALL PLANT, LABOR, EQUIPMENT AND MATERIALS IN STRICT ACCORDANCE WITH THE PLANS AND SPECIFICATIONS FOR THE CONSTRUCTION OF INERT SPARE STORAGE, AMMO MAINTENANCE FACILITY AND THE ALTERATION OF THE AMMO AREA DEVELOPMENT. \* \* \*"

Award was to be made " \* \* \* TO THAT RESPONSIBLE AND RESPONSIVE BIDDER WHOSE BID IS MOST ADVANTAGEOUS TO THE GOVERNMENT, PRICE AND OTHER FACTORS CONSIDERED. \* \* \*" In addition, we note that by inclusion of paragraph 10(c) of Standard Form 22, "INSTRUCTIONS TO BIDDERS," the Air Force reserved the right to accept any single item or combination of items of a bid unless precluded by the IFB or unless a bidder included a restrictive limitation in its bid.

In the circumstances, language that subitem prices were irrelevant to the evaluation of bids and that only an aggregate award was contemplated cannot be read into the IFB. See 49 Comp. Gen. 107 (1969). Furthermore, in the cited case we concluded that even if an aggregate price governed, the requirement for subitem prices could not be considered irrelevant in the absence of specific language to that effect. Thus, it was incumbent upon each bidder to check its item and subitem prices, to verify the items totals, to verify the aggregate total bid, and, in the event a total item price did not correspond to the actual total of the particular subitems, to furnish with the bid an adequate explanation for the price variances.

Since Lewis Brothers' bid contained nothing to indicate why the price for item 1 did not correspond to the actual total price of the related subitems, the Government was unable to ascertain from the bid itself which price Lewis Brothers intended to quote on item 1. Further, since the unsubstantiated lower item 1 price was carried over into Lewis Brothers' total bid price for all three items, the Government could not be assured under the bid as submitted that Lewis Brothers would perform at the stated aggregate price. See 43 Comp. Gen. 817, 820 (1964). Accordingly, and since one reasonable interpretation of Lewis Brothers' bid

B-186623

would cause it to be the low bidder and the other would not, it would be unfair to the other bidders affected to permit Lewis Brothers to elect which price it should attempt to support, and its ambiguous bid must be rejected. See 43 Comp. Gen. supra.

In reaching this conclusion, we note that based on the Government estimate and the other bids, it cannot clearly be determined that the lower price for item 1(c) (2) is logical and the higher one is not. Perhaps even more significantly, if the two subitems in 1(c) are considered together, the higher figure gives a result much more consistent with the Government estimate and the other bids than does the lower.

  
Deputy Comptroller General  
of the United States