Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Cartridge Technology Network, Inc.

File: B-271197

Date: June 3, 1996

David S. Cohen, Esq., and Victor G. Klingelhofer, Esq., Cohen & White, for the protester.
Christopher G. Lill, for American Laser, Inc., an intervenor.
Benjamin G. Perkins, Esq., Defense Logistics Agency, for the agency.
Sylvia Schatz, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Awardee's offer is not unbalanced where awardee's last 2 option year prices were lower than protester's and lower than awardee's prices for the base year and first two option years, but there is no evidence of overstated prices in awardee's offer in the earlier contract years.

DECISION

Cartridge Technology Network, Inc. (CTN) protests the award of a contract to American Laser, Inc. (ALI) under Defense General Supply Center (DGSC) request for proposals (RFP) No. SPO450-95-R-3056, for laser printer toner cartridges to be used by the Defense Supply Center in Richmond, Virginia (DSCR). CTN argues that ALI's proposal contained unbalanced prices and should have been rejected.

We deny the protest.

The RFP contemplated the award of a fixed-price requirements contract on a best value basis, for a base year with four 1-year options, for an annual estimated 25,000 cartridges. The solicitation set forth two equally weighted factors, price and past performance. Past performance was evaluated using an Automated Best Value Model (ABVM) score (ranging from 0 points for poor performance to 100 points for excellent performance), which indicated the offeror's performance on DSCR contracts for the type of supplies required here, performed over a 12-month period beginning 14 months prior to generation of the offeror's ABVM score. Price (for the base and option years) was to be evaluated for reasonableness.

DSCR received 13 offers. Following discussions, the agency requested and received best and final offers (BAFO). ALI's BAFO was assigned an ABVM score of 99.3 points, while CTN's was 89.7 points. The offerors' prices were as follows:

	ALI	**CTN**
Base price	$57.90	$53.90
Option period 1	48.90	48.90
Option period 2	40.90	43.00
Option period 3	29.30	43.00
Option period 4	26.20	43.50
TOTAL	$5,080,000	$5,795,000

The contracting officer made award to ALI based on its highest past performance score and lowest price.

CTN argues that ALI's BAFO was unbalanced, and could not be accepted for award, because its base year and first 2 option year prices were substantially higher than the prices for the last 2 option years. CTN maintains that ALI's BAFO will not result in the lowest price to the government, "since demand for the toner cartridge models procured under [this] RFP is likely to diminish over a five year period," as Hewlett-Packard introduced a new "next generation" series of laser printers which utilize different toner cartridges from those required here.

Before an offer can be rejected as unbalanced, it must be found to be both mathematically and materially unbalanced. An offer is impermissibly mathematically unbalanced where it contains nominal prices for some items and overstated prices for others. SIMSHIP Corp., B-253655.2, Dec. 2, 1993, 93-2 CPD ¶ 293. A mathematically unbalanced offer is considered materially unbalanced, and cannot be accepted, where there is a reasonable doubt that acceptance of the offer will result in the lowest overall cost to the government, or where it is so grossly unbalanced that its acceptance would be tantamount to allowing an advance payment, even if the offer represents the lowest cost to the government. Star Brite Constr. Co., Inc., B-244122, Aug. 20, 1991, 91-2 CPD ¶ 173.

It does not appear that ALI's BAFO was mathematically unbalanced. A mathematically unbalanced offer must contain both nominal prices and overstated prices. Although ALI's last 2 option year prices were lower than CTN's and lower than ALI's own prices for the base year and first 2 option years, there is no evidence of overstated prices in the earlier contract years--ALI's base and first

2 option year prices ($57.90, $48.90, and $40.90, respectively) were very similar to CTN's ($53.90, $48.90, and $43.00, respectively). Accordingly, we cannot say that ALI's offer is mathematically unbalanced, and therefore there is no basis to find it materially unbalanced.[1]

The protest is denied.

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[1]Moreover, the agency reports that CTN's assumption that more cartridges will be ordered in the early contract years is based on a faulty premise, i.e., that the printers which use these cartridges likely will be replaced with new generation printers during the life of the contract. The agency states that, in fact, it currently has no plans to do so; indeed, the agency reports that, given the cutbacks in government spending, it is unlikely DSCR will switch to this new printer during the next 5 years.