

01547

James Vickers
Proc. I

DECISION



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

FILE: B-187940

DATE: February 22, 1977

MATTER OF: Chemical Technology, Inc.

DIGEST:

Cancellation of IFB was proper where IFB stipulating step-ladder quantities called for evaluation and award on mathematical procedure which did not assure actual lowest cost to Government since lowest bidder must be measured by total and actual work to be awarded.

The Department of the Army issued invitation for bids (IFB) No. DAAG54-77-B-0005 for kitchen police services at Vint Hill Farms Station, Warrenton, Virginia.

The IFB estimated that 15,000 meals would be served per month and provided the following method of bid evaluation:

**"SECTION D. EVALUATION AND AWARD FACTORS EVALUATION
OF BIDS:**

"All bids will be evaluated by multiplying each unit cost (representing one (1) month's meals served) by 12 (months duration of contract) for each contract line item. Then all items for each contract line item will be added together and divided by five (5). Items 0001AA thru 0001AE are all part of contract line item 0001, likewise, items 0002AA thru 0002AE are part of CLIN 0002. CLIN 0001 and 0002 will be evaluated separately.

"The Government will then determine which line item is the most economical to the Government and awarded to the lowest responsible bidder for that item.

"Award will be made based on the lowest average price for either CLIN 0001 or CLIN 0002, not for both. Only one CLIN will be awarded."

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CLIN 0001 was for the services with the contractor furnishing all cleaning materials and supplies and CLIN 0002 was with Government-furnished supplies.

The following three low bids were received for CLIN 0001 from Chemical Technology, Inc. (CTI), Kleanrite, Inc. (Kleanrite), and ORS Inc. (ORS):

	<u>CLIN</u>	<u>CTI</u>	<u>Kleanrite</u>	<u>ORS</u>
0001	AA Under 12000	\$6,200.00	\$5,975.00	\$7,500.00
0001	AB 12000-13499	9,000.00	6,480.00	8,333.33
0001	AC 13500-16499	9,550.00	7,450.00	8,738.33
0001	AD 16500-17999	8,400.00	8,100.00	8,738.33
0001	AE Over 18000	1,000.00	8,100.00	8,738.33
	Average less discount	\$6,650.00	\$7,076.58	\$8,241.47

While the low bid, under the stated evaluation factors, was submitted by CTI, the contracting officer determined to reject the bid, to cancel the IFB, and to resolicit the requirement in view of the unbalancing of CTI's bid which, according to the contracting officer, would not result in the lowest actual cost to the Government. The contracting officer based the determination on a comparison of the bids with the actual meals served per month during the prior contract period.

CTI has protested the cancellation of the solicitation and the failure of the procuring activity to award CTI the contract. CTI argues that, under the method of bid evaluation stated in the IFB, CTI was the low bidder and that the use by the contracting officer of the actual meals served during the prior year to show CTI's bid was not actually low was improper since such information was not included in the IFB. Further, because the contracting officer has confirmed that the 15,000 meals per month average remains the Government's best estimate of the anticipated quantity under the new contract the rejection of CTI's bid was inconsistent with prior decisions of our Office.

The contracting officer justifies the actions in regard to the procurement as follows in a report to our Office in response to the protest:

"g. The 15,000 meal average cited in the seventh paragraph is based on the Government's best estimate. Historical data (Nov 75 - Oct 76) shows that six (6) months or 50% of the time the meals served fell under

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CLZN 0001AC or 0002AC. The solicitation did not provide for mathematical weighting of the various quantity of meals; further, the necessity for such did not evidence itself until the bids were analyzed. To award a contract which potentially is not the most advantageous to the Government is contrary to Department of Defense policy as stated in ASPR 2-103(iv)."

While the protester, CTI, and the procuring activity have correctly categorized the protest as one involving unbalancing of bids, we believe a more critical problem with the procurement and one which justified the cancellation is the method of evaluation. We find, upon review of the record, that the method of evaluation gives no assurance that award would be made to the bidder offering the lowest cost to the Government, even if none of the bidders unbalanced their bids.

Under the evaluation scheme contained in the IFB, each price for the five stepladder quantities of meals served is multiplied by 12 (months of contract), then totaled and divided by 5 and award was to be made based on the low bid after the above procedure. This is valid only when the stepladder quantities actually occur in approximately equal proportions. This apparently is not the case. Therefore, the averaging of the prices for the five stepladder quantities does not assure the Government the actual lowest cost.

Our Office has held that the lowest bidder must be measured by the total and actual work to be awarded. Any measure which incorporates more or less than the work to be contracted for in selecting the lowest bidder does not obtain the benefits of full and free competition required by the procurement statutes. See 50 Comp. Gen. 583 (1971); Linolex Systems, Inc., 53 Comp. Gen. 895 (1974), 74-1 CPD 296; Square Deal Trucking Co., Inc., B-183695, October 2, 1971, 75-2 CPD 206.

Since here, the Government does not obtain a true and realistic picture of the actual cost sufficient to assure award to the lowest responsive bidder, we find the cancellation of the IFB to have been proper and the protest is denied.

R. F. K...
Acting Comptroller General
of the United States