

DECISION

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

Ayer
25406

FILE: B-209908

DATE: June 7, 1983

MATTER OF: Alliance Properties, Inc.

DIGEST:

1. Protest against alleged unbalanced bidding is denied where record shows only that allegedly unbalanced bids are lower than either the Government estimate or the bid of the incumbent protester.
2. Protest against aspect of allegedly defective evaluation scheme is untimely when filed after bid opening.

Alliance Properties, Inc. (Alliance), the incumbent contractor and third low bidder under invitation for bids (IFB) No. N62474-82-B-C917 (maintenance of Navy family housing), protests any award to either the first or the second low bidders on the grounds that: (1) they both submitted unbalanced bids, and (2) an aspect of the solicitation's evaluation scheme is defective. The protest is in part denied because the bids are not unbalanced and in part dismissed because the protest against the solicitation provision is untimely.

Although Alliance argues that the 42 line item bids of the first and second low bidders are unbalanced when compared with a composite of other bidders' prices and the Government estimate, our review of the record discloses only that the low bid is lower than the protester's except for five of the 42 items. We have described unbalanced bidding as follows:

"* * * The term 'unbalanced' * * * is applied to bids on procurements which include a number of items as to which the actual quantities to be furnished are not fixed, in which a bidder quotes high prices on items which he believes will be required in larger quantities than those used for bid evaluation, and/or low prices on items of which he believes fewer will be called for. * * *"

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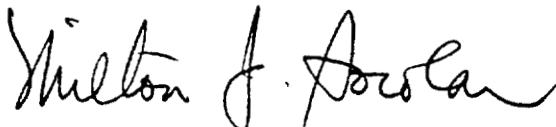
Edward B. Friel, Inc., 55 Comp. Gen. 231, 237 (1975), 75-2 CPD 164. The record simply does not indicate this kind of bidding. For example, a random selection of bids from among the 42 items bid shows:

<u>Item No.</u>	<u>5</u>	<u>10</u>	<u>15</u>	<u>20</u>
Government Estimate	\$3.00	0.40	16.00	7.50
Protester's Bid	\$4.00	0.20	17.00	8.00
2nd Low Bid	\$1.49	0.60	17.00	5.00
Low Bid	\$1.00	0.10	15.00	5.00

We do not find any evidence that the protested bids are mathematically unbalanced; however, even if we were to assume that the protested bids were mathematically unbalanced, which we do not, an agency can accept a mathematically unbalanced bid if the agency believes the Government's estimate of the quantities involved is reasonably accurate. Edward B. Friel, Inc., *supra*. The Navy reports that it has no doubts that an award to the low bidder will result in the lowest ultimate cost to the Government.

Alliance also protests the evaluation scheme in the IFB. Bids were opened on November 12, 1982. Our Bid Protest Procedures require that a protest based upon alleged improprieties in an IFB be filed before bid opening. 4 C.F.R. § 21.2(b)(1) (1983). For protests filed with us, the term "filed" means receipt in our Office. Shell Computer Systems, Inc., B-203986, July 23, 1981, 81-2 CPD 58. We received Alliance's protest on November 19, 1983, or 7 days after bid opening, and, therefore, this aspect of the protest is untimely and will not be considered on the merits. We note, however, that Alliance initially protested that the particular provision should be either modified or deleted and that the Navy report shows that the provision was, in fact, deleted by amendment No. 2, which Alliance acknowledged prior to bid opening. We also note that Alliance has subsequently advanced other arguments against the evaluation scheme as it existed following the deletion of the complained-of provision and that these arguments are also untimely and will not be considered.

Accordingly, the protest is denied in part and dismissed in part.

for 
Comptroller General
of the United States