

DECISION

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

FILE: B-216855, 216857, 216858 **DATE:** March 29, 1985

MATTER OF: Bell Atlanticom Systems, Inc.

DIGEST:

1. Invitation for bids was not ambiguous or unclear in stating requirements for pricing information in bids.
2. Bids which do not include prices for services which may be required by procuring agency are nonresponsive even though omitted prices are not used in determining the low bidder.
3. Omission of pricing information from bids that was unrelated to bidder's obligation to perform in accordance with the terms and conditions of an invitation for bids did not make bids nonresponsive.
4. Claims that other bids were improperly rejected must be raised by the parties that submitted those bids.

Bell Atlanticom Systems, Inc. protests the award of contracts to Universal Communication Systems, Inc. for telephone systems for Veterans Administration medical facilities in Tampa, Florida; San Antonio, Texas; and East Orange, New Jersey. The VA used two-step formal advertising procedures to procure the telephone systems and rejected Bell Atlanticom's bids under the second step of each solicitation, invitation for bids (IFB) Nos. 673-40-84 (Tampa), 671-61-84 (San Antonio) and 561-32-84 (East Orange), for failure to provide certain pricing information. The protester contends that, under a reasonable interpretation of the solicitations, it was not required to submit the disputed information. Bell Atlanticom also contends that the Universal bids contained similar information deficiencies but were not rejected.

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We deny the protests in part and dismiss them in part.

Offerors submitted technical proposals under the first step of each solicitation. The VA invited those whose step one proposals were acceptable to submit bids for any or all of three procurement options--lease, lease with option to purchase, and purchase. Bell Atlanticom's technical proposals in each procurement were accepted by the VA. After submitting its step two sealed bids for the telephone systems, Bell Atlanticom received a notification from each contracting officer that its bid had been declared nonresponsive. Each notification cited the same three bases for the agency's determination: Bell Atlanticom failed to identify elements of the price of the initial telephone system; it failed to specify prices of follow-on services which might be required; and it failed to include bid prices for some schedule items. Bell Atlanticom submitted the low bid for each system.

The instructions for preparing bids, identical for each IFB, requires bidders to submit lengthy bid worksheets. On the bid worksheets, bidders record their bids for installation and lease and/or purchase of the initial telephone system, the cost of maintenance for 10 years, and prices for selected items for additional equipment that the VA anticipates it will require during the 10-year service period. The VA includes formulas for determining the present worth of lease, maintenance and estimated growth costs on the bid worksheet forms. Each bidder calculates and records its total bid for each procurement option using the formulas on the bid worksheets. These totals are used by the VA to compare the cost of the procurement options and to select the low bidder.

Paragraph 3.0 of the instructions requires bidders to identify on attachments to the bid worksheets the cost of specified elements of the initial telephone system, including "single line main stations and extensions," "power supply/inverter and ancillary equipment," and "labor to install the initial telephone system." Only the total price of the initial system is recorded on the bid worksheets themselves. Bell Atlanticom provided the total initial system price on the bid

worksheets, but did not provide attachments with a breakdown of the costs for components of the initial system. Instead, the company responded to each subparagraph of paragraph 3.0, specifying components of the original system for which costs were required, by noting on its bid "Bell Atlanticom understands and will comply."

Paragraph 4.0 of the IFB instructions requires each bidder to include prices of follow-on services which may be required by the VA, including "Single line station installation, removal or relocation," "Expansion of the console(s) to increase station capacity," and "Expansion of the cross office traffic capacity." Some of these items were listed by the VA on the worksheets provided to the bidders, while others were to be provided by the bidders on attachments to the basic worksheets. The successful bidder is required to provide equipment for these additional services, and, for the first year after acceptance of the system, the successful bidder must sell the follow-on services for the prices quoted in its bid. Thereafter, prices may not increase by more than the overall Consumer Price Index.

On the bid worksheets, the protester provided the prices of follow-on services listed by the VA. Rather than providing an attachment to the worksheet specifying its prices for the follow-on services specified in paragraph 4.0, and not listed on the VA-provided worksheets, Bell Atlanticom stated in its bid that it understood and would comply with all the services specified in that paragraph.

Bell Atlanticom argues that the pricing information which it omitted is not required by the terms of the solicitations. We disagree. Paragraph 3.0 states that the cost of specified components of the initial system must be identified on attachments to the bids. This direction is repeated in several other paragraphs including paragraph 8.5.3, which states that "Attachments to the Bid Worksheets, detailing a breakdown of equipment provided with the initial telephone system are required." Paragraph 4.0 specifies follow-on services which may be required by the VA, and states that each bid shall include the costs of such services. Paragraph 8.5.13.1 states:

"For bids to be considered responsive, all paragraphs and subparagraphs of this Attachment, affecting elements of cost, must be addressed with the bid submittal (Step-Two). In addition, information requested by subsequent Enclosures, to include all items of the applicable Bid Worksheet(s), of this Attachment, must be addressed. As a minimum, a statement of compliance and understanding or detailed cost breakdown shall be made for each paragraph, subparagraph, applicable Enclosure(s), Bid Worksheet(s), and Attachments."

Bell Atlanticom contends that because paragraph 8.5.13.1 calls for a statement of compliance and understanding or a detailed cost breakdown, either is satisfactory. The IFB instructions contain numerous paragraphs and subparagraphs, some of which state requirements for prices to be provided by bidders, while others state general obligations of the successful bidder or how bid prices are to be calculated and recorded in the bids. We believe that the only reasonable interpretation of the cited language in paragraph 8.5.13.1 is that it requires a detailed price breakdown when a paragraph or subparagraph of the instructions expressly or by clear implication calls for prices rather than a statement of compliance. Paragraph 8.5.13.1 does not relieve bidders of the obligation to supply the pricing information expressly required by paragraphs 3.0 and 4.0.

Bell Atlanticom argues in the alternative that the omitted price breakdowns are unnecessary to the evaluation of the bids, and that it explicitly agreed to perform and comply with the requirements of the solicitation. The company contends that, consequently, the VA's nonresponsiveness determinations were unreasonable.

We think the agency properly rejected the protester's bid because of Bell Atlanticom's failure to include the required commitment in the bids to provide follow-on services at established prices. The regulations authorize rejection of any bid that fails to conform to the "essential requirements" of an IFB. Federal Acquisition Regulation, 48 C.F.R. § 14.404-2(a) (1984). This determination involves the question of whether a

bid is responsive to the IFB. The test for responsiveness is whether the bid as submitted is an offer to perform, without exception, the exact thing called for in the IFB, and upon acceptance will bind the contractor to perform in accordance with all the terms and conditions of the IFB. 49 Comp. Gen. 553, 556 (1970). Unless something on the face of the bid, or specifically a part of it, either limits, reduces or modifies the obligation of the prospective contractor to perform in accordance with the terms of the invitation, it is responsive. Id. at 556.

Anticipated growth during the first 10 years of system operation was a major concern of the VA in purchasing the three telephone systems. Bidders were required in step one of the two-step procurement to provide a written 10-year commitment from the system manufacturer for parts supply and manufacturing field support. Paragraph 4.0 of the IFB instructions requires bidders to specify prices for listed follow-on services and the successful bidder is obligated to provide those services at the prices included in its bid, with annual increases not to exceed increases in the Consumer Price Index. Thus, the availability of components of the telephone system at pre-established prices is one of the things being purchased by the VA. Bidders that fail to supply the prices of follow-on services have not offered to perform something required in the IFB--providing additional services at pre-established prices. Bell Atlanticom's bids were, therefore, nonresponsive to the solicitation.

While the VA properly rejected Bell Atlanticom's bids for failing to provide prices of follow-on services, we note that the protester's failure to provide a price breakdown of the initial system components would not, in itself, have made the bids nonresponsive. The prices of components of the initial system were not used by the VA in determining the lowest bidder, and are unrelated to the successful bidder's obligations to the VA. Bell Atlanticom established the composition of its initial telephone system in the first step of each procurement, and by its submission in step two the company offered to provide the system for the prices bid. The omission of a price breakdown for components of the system did not qualify Bell Atlanticom's bids or cause a failure to conform with "essential requirements" of the solicitations. Therefore, the protester's failure to

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include a cost breakdown of the original system as requested in paragraph 3.0 of the IFB instructions would not have resulted in the rejection of its bids.

The VA has raised several additional reasons why it believes that the Bell Atlanticom bids were nonresponsive. In view of our conclusion that the bids were properly rejected for failing to include prices of follow-on services, it is unnecessary to consider the additional grounds for rejection asserted by the agency.

Finally, Bell Atlanticom contends that portions of the Universal bid for the San Antonio system were corrected by the VA, while the VA did not correct similar errors in the bids of Bell Atlanticom. The VA did correct cost growth calculations by Universal based upon the prices of equipment provided in the bid. The erroneous calculations were for purposes of assisting the VA in determining which system would be most economical over a 10-year period. Universal's errors in the calculations did not qualify the company's bid price or its obligations to comply with terms and conditions of the IFB, which were established elsewhere in the bid. We think that the VA may properly correct such errors in bidders' growth calculation since the errors consist merely of failures to work out mathematical formulas using information provided elsewhere in the bids. Universal Communications Systems, Inc., B-205032, Sept. 20, 1982, 82-2 CPD ¶ 236. Treatment of the Universal bid was not inconsistent with treatment of the Bell Atlanticom bids here, since the Bell Atlanticom bids did not require correction of growth calculations. Rather, the bids were declared nonresponsive for failure to provide the required pricing information.

The protester also complains that the bids of Centel Business Systems and Northern Telecom were treated differently than Universals' bids. Since these bidders were allegedly hampered by the agency's conduct, they would be the appropriate parties to raise these issues, not Bell Atlanticom. Sentinel Electronics, Inc., B-212770, Dec. 20, 1983, 84-1 CPD ¶ 5. We therefore dismiss these issues.

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The protests are denied in part and dismissed in part.

for *Raymond E. Fred*
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