

DECISION



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

31182

FILE: B-217113

DATE: May 15, 1985

MATTER OF: Northern Medical Supply, Inc.

DIGEST:

Where the IFB for two items contemplates that award will be based on the low bid for the first program year and/or the total 3-year low bid, whichever is more advantageous to the government, the contracting agency may award the contract to the single bidder with the lowest single or 3-year bid and is not required to award to separate bidders, even if the split award would be the lowest cost to the government, where continuity of service requires an award to a single bidder.

Northern Medical Supply, Inc. (Northern Medical) protests the award of a contract to B&B Medical Services, Inc. (B&B) under invitation for bids (IFB) No. 635-56-85, issued by the Veterans Administration Medical Center (VA), Oklahoma City, Oklahoma for oxygenator services and ancillary supplies.

The protest is denied.

The IFB's multi-year contracting format required that bidders submit prices for item Nos. 1 (services) and 2 (supplies) for each of 3 program years, and that a single offer for the 3-year requirement would be considered nonresponsive. The IFB further reserved the right to disregard the 3-year price and make an award only for the first program year. Award would be based on the low bid for the first program year and/or for the total multi-year low bid, whichever was more advantageous to the government. The IFB, as amended, provided three separate schedules for the three item No. 1 program years, but only provided one undated schedule for item No. 2, requiring a total bid for item No. 2 and a total bid for item Nos. 1 and 2.

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The VA states that five bids were received in response to the IFB. The low bid, submitted by B&B, quoted an annual price of \$84,357.50 for the two items and a 3-year price of \$253,072.50. The contracting officer rejected Northern Medical's bid as nonresponsive for quoting only a price of \$87,832.50 for 1 year, but no price for 3 years as required by the IFB.

Northern Medical contends that since its bid on item No. 2 was less than B&B's, a split award should have been made as representing the lowest cost to the government. The protester states that since B&B submitted only a nonresponsive aggregate bid, Northern Medical should be reconsidered for the award of a contract for both items. The protester also alleges that it was misled by the solicitation and a contracting official into submitting only a single-year price.

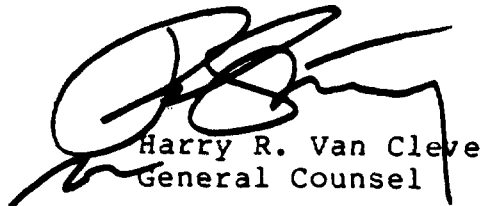
We can understand how the protester was misled by the IFB. The Chief, Supply Service, at the procuring activity, admits that the amended schedule was confusing. This is evidenced by the fact that even the responsive bidders did not complete the amended schedule uniformly. Moreover, given the IFB's requirements for annual and 3-year prices and the fact that the amended 1-page item No. 2 schedule contained no dates, it could be argued that the protester's bid was responsive.

Despite this, the protester was not prejudiced, even though it submitted the low item No. 2 bid. As the VA points out, both extending the protester's prices over 3 years or considering the protester's 1-year price does not displace B&B as the low bidder. Since, despite Northern Medical's contention to the contrary, B&B responsively supplied bids for 1 and 3 years, the only issue remaining for consideration is the protester's request for a split award.

The VA states, and the protester does not deny, that for continuity of services, it is imperative that only one contractor perform both schedule items, by providing the services and consumable supplies. Further, the IFB clearly does not contemplate a split award, and nothing in the IFB required such an award. In these circumstances,

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there is no basis to recommend a split award. Synergetics International, Inc., B-200801, Mar. 5, 1981, 81-1 CPD ¶ 174.



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