

DECISION



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

FILE:

B-222018.2

DATE: June 25, 1986

MATTER OF:

Paragon Van Lines, Inc.

DIGEST:

1. Where a solicitation for moving and storage services in five different areas permits bids on an all or none basis, protest that an agency improperly considered a bid from a firm that qualified its bid by agreeing to accept an award for one area only if awarded a second area is without legal merit. Where an award for both areas results in the lowest overall cost to the government and is in accord with the solicitation, it may properly be made.
2. Protest that a low aggregate bid should be rejected because one line item out of more than 30 is unreasonable as to price, resulting in an unbalance bid, is denied. Even if the bid is mathematically unbalanced, it may properly be accepted so long as the estimated quantity of work under the item reasonably represents the agency's actual anticipated needs.

Paragon Van Lines, Inc. protests the award of a contract to Checker Van Lines, Inc. under invitation for bids (IFB) No. DABT35-86-B-0013, issued December 6, 1985 by the Department of the Army, Directorate of Contracting, Fort Dix, New Jersey. The solicitation was for moving and storage of personal property of military and civilian personnel at Fort Dix and McGuire Air Force Base, New Jersey.

The protester contends that the Army improperly permitted Checker to qualify its bid. The protester also contends the government's estimate for a line item covering storage of containerized articles is unrealistic and that the award to Checker will result in an unreasonable price for this item.

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The solicitation in question requested prices for various services, with Schedule I (line items 1 - 14) covering outbound goods from three New Jersey areas and Schedule II (line items 15 - 33) covering inbound goods for two New Jersey areas. Estimated quantities, generally expressed in hundreds of pounds, were provided for each item. The solicitation stated that bids would be evaluated on the basis of all items within a given area of performance under a given schedule, with award to the low, qualified bidder by area. However, the government reserved the right to make an award of two or more areas to a single bidder if this would result in an overall lower estimated cost.

Checker was the low bidder for all areas under Schedule I and for Schedule II, area 1. It had, however, attached a letter to its bid stating, among other things, that it would not accept an award for Schedule I, area 2, without an award for Schedule II, Area 2, for which it was the third-low bidder. The Army did not discover this letter at bid opening on February 13, but, after discovering and evaluating it, the contracting officer determined that it was in the best interest of the government to make an aggregate award, i.e., for all areas under Schedules I and II, to Checker; it did so on February 26.

We disagree with Paragon's contention that the Army should have rejected Checker's bid because of the qualification, since the solicitation did not preclude all or none bids. The agency's failure to discover the qualification letter until after bid opening, and its subsequent initial refusal to show this letter to Paragon, requiring the protester to submit a request for it under the Freedom of Information Act, are procedural irregularities. However, they do not change the fact that the agency properly considered whether an aggregate award to Checker would be in the best interest of the government.

The record indicates that Checker was the low bidder for Schedule I, Area 2, in the amount of \$7,525. If the agency had not awarded a contract for this area to Checker because of its so-called qualification, the next-low bidder for the area would have been Paragon in the amount of \$17,347.50. According to agency figures, which include the cost of administering separate contracts, an aggregate award (for all areas) to Checker would cost the government an estimated \$153,354.59, while multiple awards to Checker, Paragon, and the other low bidder would cost \$156,464.28.

Thus, the contracting officer states, the award to Checker resulted in an overall savings of \$3,109.69. In view of this savings, and since the evaluation was in accord with the solicitation, we deny Paragon's first basis of protest.

Paragon also argues that Checker's bid price for storage under line item 23a is unreasonable.^{1/} The protester appears to allege that Checker was able to submit a high price for this item because the government estimate, 60,000 pounds over 11 months, is low.

In its comments on the agency report, Paragon argues that under its own 1985 contract, storage services comparable to these covered by item 23a amounted to 21,351 pounds at McGuire Air Force Base in November and 39,173 pounds at Fort Dix in December. According to Paragon, the amount stored during these months alone is more than the estimated 11-month quantity in the subject IFB. The Army disputes Paragon's figures and states that for November and December, respectively, the correct totals were 16,531 pounds at McGuire AFB and 15,544 pounds at Fort Dix. The Army further states that more goods currently are being shipped by air than during 1985, and this and other changes in transportation and procedures account for the lower estimate for storage during 1986.

The legal question here is whether Checker's bid is materially unbalanced, i.e., whether there is reasonable doubt that an award to Checker would result in the lowest cost to the government. A bid that is merely mathematically unbalanced, i.e., where various items do not carry their proportionate share of the total bid price, may properly be accepted unless the estimates on which it is based do not reasonably represent the agency's actual anticipated needs. Command Systems, B-218093, Feb. 15, 1985, 85-1 CPD ¶ 205.

In our opinion, Paragon has not shown that the estimate for storage under line item 23a does not reasonably represent the Army's actual anticipated needs; it has merely shown that the estimate differs from past storage requirements. Therefore, while Checker's bid for this item, which is only one of more than 30, may be

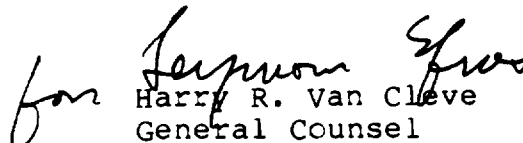
^{1/} Checker's unit price for item 23a was \$15. The Army states that the average unit price of other bidders for this item was \$1.75.

mathematically unbalanced, we have no basis to conclude that the award of all areas to Checker will not result in the lowest overall cost to the government. Further, the contracting officer has determined that Checker's price is not unreasonable. We will not question this type of decision where, as here, the protester has not shown possible fraud or bad faith. See MIL-STD Corp., B-212038 et al., Jan. 24, 1984, 84-1 CPD ¶ 112. We also deny the protest on this basis.

In a supplemental letter dated March 4, Paragon protests the Army's placement of purchase orders under line item 4(a)(1) of the Checker contract. Specifically, the firm argues that the Army should not order services for outbound unaccompanied baggage in government-furnished containers at Checker's bid price of \$36.80. Rather, Paragon contends, the agency should place orders under item 4(b)(1) of its own 1985 contract, under which the contractor furnishes the containers at no charge. In addition, Paragon appears to allege that the government estimate for this line item is not accurate, so that it also permits unbalanced bidding.

The record indicates that the Army suspended performance of the Checker contract pending our Office's resolution of the protest. While the Army may have made interim arrangements, we find no legal merit to the allegation that orders are improperly being placed with Checker under the protested contract. Moreover, it appears that Paragon's 1985 contract has now expired. As for the accuracy of the estimate for item 4(a)(1), as with item 23a, Paragon has shown only that there was no requirement for government-furnished containers from 1981 to 1985; it has not shown that the estimated quantity of 50,000 pounds does not reasonably reflect the agency's needs for the next 11 months or that the award to Checker will not result in the lowest overall cost to the government.

The protest is denied.


Harry R. Van Cleave
General Counsel