



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Mid-East Services, Inc.

File: B-223993

Date: September 4, 1986

DIGEST

1. Protest that solicitation is vague is dismissed as untimely when not filed before bid opening date.
2. The government's acceptance of a below cost bid by a responsible firm is not legally objectionable.
3. Protest against the procuring agency's acceptance of an allegedly unbalanced bid will not be considered where the protester has not suggested that the award will not result in the lowest ultimate cost to the government.

DECISION

Mid-East Services, Inc., protests the award of a contract to Military Waste Management Services, Inc., under Department of the Army invitation for bids (IFB) No. DABT59-86-B-0022.

We dismiss the protest without receiving a report on the matter from the Army, since it is clear from Mid-East's submission that the protest has no legal merit. See 4 C.F.R. § 21.3(f) (1986).

The IFB was issued to procure refuse collection and disposal services, and required bidders to submit costs for the normal services to be performed and for the rental of additional trash containers. Mid-East protests that the IFB was vague because it did not provide a schedule for the additional containers. Mid-East also complains that the bid submitted by Military Waste is unbalanced, on the basis that Military Waste bid much less per month for a service than, according to Mid-East's calculations, it will cost to perform.

Under our Bid Protest Regulations, a protest based on an alleged impropriety in a solicitation must be filed before the date and time set for bid opening. 4 C.F.R. § 21.2(a)(1) (1985). The Army has informed our Office that bid opening took place on August 12. Since Mid-East's protest that the

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solicitation was vague was not filed until August 21, this issue is untimely and we will not consider it on the merits. Conner Building Maintenance, Inc., B-221301, Jan. 15, 1986, 86-1 C.P.D. ¶ 51.

With respect to Mid-East's concern that Military Waste bid less for a service than it will cost the firm to perform, Mid-East really is arguing that Military Waste submitted a below cost bid, rather than an unbalanced bid. A below cost bid is one that does not reflect the bidder's performance cost, ABC Appliance Repair Service, B-221850, Feb. 28, 1986, 86-1 C.P.D. ¶ 215, whereas an unbalanced bid is a bid that is based on nominal prices for some work and enhanced prices for other work. Porta-John Corporation, B-218080, Mar. 19, 1985, 85-1 C.P.D. ¶ 325. There is nothing illegal in the submission and acceptance of a below-cost bid so long as the bidder is judged able to perform at the contract price, a matter that we do not review. ABC Appliance Repair Service, B-221850, supra.

Further, even if Mid-East is asserting that Military Waste's bid is unbalanced, the protest is without merit. A bid that is unbalanced may be accepted unless there is a reasonable doubt that an award to the bidder will not result in the lowest overall cost to the government. See Porta-John Corp., B-218080, supra. Mid-East does not allege that an award to Military Waste will not result in the lowest cost to the government; Mid-East basically only suggests that Military Waste did not bid high enough on an item.

The protest is dismissed.



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