



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Robertson & Penn, Inc.  
File: B-224933  
Date: December 12, 1986

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### DIGEST

1. When Army policy is to provide low cost laundry and dry cleaning to service members, the General Accounting Office (GAO) has no legal basis to question directive which specifically states that installation commanders, rather than bidders, will establish prices for such services. GAO generally does not review executive branch policies in its bid protest function.
2. When protester chooses to subcontract a portion of dry cleaning work that it could perform at a government-owned facility with government-furnished equipment, its resulting higher prices do not establish that the government is improperly using appropriated funds to subsidize or defray the cost of the dry cleaning.
3. Unless the government has contributed to the competitive advantage of an incumbent contractor, an agency is not required to take action to equalize the competition. Nevertheless, when an agency has provided information as to the incumbent's current workload in the context of a bid protest, the General Accounting Office suggests that the agency make this information available to all bidders in a solicitation amendment.
4. Protest alleging that agency improperly failed to review prices for laundry and dry cleaning services during the course of an existing contract concerns contract administration, and it is therefore outside the General Accounting Office's bid protest jurisdiction.

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### DECISION

Robertson & Penn, Inc. protests the terms of a solicitation for operation of a government-owned laundry and dry cleaning facility at Fort Dix, New Jersey. The firm primarily alleges that the prices specified in the invitation for bids (IFB), No. DABT35-86-B-0099, for dry cleaning of personal items for

0376

individual service members are too low to cover the contractor's operating costs. Therefore, Robertson & Penn argues, the Army is improperly using appropriated funds to subsidize the dry cleaning.

We deny the protest.

The IFB, issued July 23, 1986, as a small business set-aside, contemplated a 1-year contract with up to 4 option years. Bidders were to submit lump sum prices for an estimated amount of military organizational laundry and dry cleaning each month. The estimates, however, did not include individual piece rate work, which the solicitation defined as "laundry or dry cleaning work that is processed for authorized individual patrons on a cash and carry basis." For this work, Technical Exhibit 10 of the IFB set forth specific prices that individuals utilizing these services were to pay directly to the contractor.

Before the October 9, 1986, amended bid opening date, the incumbent contractor, Crown Laundry and Dry Cleaning, Inc., filed an agency-level protest in which it alleged that the individual piece rate prices for dry cleaning were less than the costs which it had incurred in performing the current contract. Crown Laundry requested the Army to increase these prices to reflect its actual and administrative costs for subcontracting the dry cleaning, since Fort Dix does not have dry cleaning equipment.

In response to Crown Laundry's protest, the record indicates, the Army reviewed the individual piece rate prices in Technical Exhibit 10, which were already approximately 10 percent more than those in the current contract, and determined that a total increase of 58 percent would be appropriate. This figure was based on a comparison of prices for similar services at five other military installations and at a local commercial cleaner. On August 22, 1986, the Army amended the IFB to reflect the 58 percent increase in individual piece rate prices.

One day before the scheduled bid opening (which has been postponed indefinitely), Robertson & Penn protested to our Office, arguing that the amended prices are still not sufficient to cover dry cleaning costs. In support of this argument, the firm submitted prices from two potential subcontractors, making the following comparison:

<u>Item</u>	<u>Fort Dix Price</u>	<u>Trenton, N.J. Subcontractor</u>	<u>Medford, N.J. Subcontractor</u>
Blouse	\$1.20	\$1.30	\$1.25
Cap	.30	.50	1.25
Cape	2.40	2.60	1.25
Coat, Rain	2.20	5.60	4.50
Dress, Evening	3.95	5.00	4.00
Jacket	1.35	3.00	3.75
Overcoat, w/liner	1.95	3.60	2.50
Uniform, Dress	1.95	2.60	2.50
Dress, Pleated	1.35	3.60	3.50

Like Crown Laundry, Robertson & Penn alleges that the disparity between actual costs and the "artificially low" individual piece rate prices set by Fort Dix results in a violation of Army Regulation (AR) 210-130 (Aug. 15, 1986), specifically Chapter 4-9, which states that prices will be based on overall operating costs, all of which must be recovered, and which prohibits the use of appropriated funds to subsidize or otherwise defray such costs.

Robertson & Penn alleges that in this case, bidders must increase their proposed prices for monthly service to the Army in order to recoup losses that may be incurred in providing dry cleaning services to individuals. In this regard, the firm alleges that the incumbent contractor has an unfair competitive advantage because only it knows the actual volume--and therefore the full impact--of the individual piece rate work.

Chapter 4-9 also states that individual piece rate prices will be reviewed at least twice a year and adjusted as required to ensure that services are not being provided at a loss. Robertson & Penn maintains that the Army failed to conduct semi-annual reviews during the course of Crown Laundry's contract, but did so only in response to that firm's agency-level protest.

The Army responds that Chapter 4-9 specifically authorizes installation commanders to set individual piece rate prices; that as a matter of policy, it provides laundry and dry cleaning services to individual service members at low cost; and that the prices in Technical Exhibit 10 are current as of August 1986. The Army further states that these prices were set with due regard for the prohibition against the use of appropriated funds. The government provides in-plant resources, including maintenance and utilities, at no cost to the contractor, and according to the Army, all work associated with dry cleaning except the actual washing, extracting,

and tumbling can be done at the Fort Dix facility. Finally, the Army states, the current dry cleaning workload is approximately 7,400 items a month, or less than 2 percent of the contract.

In its comments on the agency report, Robertson & Penn argues that permitting a commander to set prices is appropriate only when dry cleaning is done in-house, and that the Army should otherwise have no role in setting individual piece rate prices. The firm seeks our recommendation that bidders, rather than the Army, should set such prices at whatever level they feel is necessary to cover the cost of dry cleaning services.

Robertson & Penn strongly disagrees with the Army as to the amount of subcontracting necessary. The firm states that the pressing capabilities at the Fort Dix facility may be exhausted by other contract work, and it maintains that "whoever does the dry cleaning should do the total process."

We find, first, that Robertson & Penn is mistaken as to the scope and applicability of AR 210-130. The policies and procedures set forth therein apply both to laundry and dry cleaning facilities that are government owned and operated and to those that are government owned and contractor operated. Since provision of low cost laundry and dry cleaning to service members and other authorized patrons in accord with AR 210-130 is a matter of Army policy, we have no legal basis to question the setting of prices by installation commanders, rather than by bidders. Our Office does not generally consider executive branch policies in its bid protest function. See True Machine Co., B-215885, Jan. 4, 1985, 85-1 CPD ¶ 18.


Second, Robertson & Penn does not attempt to break down the figures provided by its proposed subcontractors or to show that the difference between their prices and those in Technical Exhibit 10 is in fact related to the dry cleaning processes that cannot be performed at Fort Dix. If, unlike the incumbent contractor, who apparently does some work on site, Robertson & Penn chooses to subcontract pre-spotting or pressing and finishing, for example, the resulting higher prices for dry cleaning do not establish that the Army is improperly using appropriated funds to subsidize the cost of the services. The protester's allegation about lack of pressing capacity at Fort Dix is unsupported.

Third, Robertson & Penn has not shown that the government contributed to any competitive advantage of the incumbent contractor, so as to require it to equalize the competition.

See Universal Alarm Services, B-214022, Mar. 5, 1984, 84-1 CPD ¶ 267. We note, however, that the Army has provided, in its report to our Office, information as to the current individual piece rate workload, and we suggest that it make this information available to all bidders by means of a solicitation amendment.

Finally, we will not consider Robertson & Penn's protest regarding the Army's alleged failure to review individual piece rate prices during the course of Crown Laundry's contract. This is a matter of contract administration, and it therefore is outside our bid protest jurisdiction. See 31 U.S.C. § 3552 (Supp. III 1985); 4 C.F.R. § 21.2(f)(1) (1986).

The protest is denied.

  
Harry R. Van Cleve  
General Counsel