



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Coventry Climax Engines, Ltd.

File: B-228318

Date: January 25, 1988

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### DIGEST

Protest against award of contract on the basis of initial proposals is denied where the solicitation advised offerors of that possibility and the existence of adequate competition demonstrated that acceptance of the most favorable initial proposal would result in the lowest overall cost to the government.

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### DECISION

Coventry Climax Engines, Ltd. protests the award, based on initial proposals, of a firm, fixed-price contract to Minowitz Manufacturing Company under request for proposals (RFP) No. DAAE07-87-R-B264, issued by the Army for auxiliary power units (APUs) for the M1 tank, including installation fixtures, spare parts and contractor support services. Coventry argues that discussions should have been held. We deny the protest.

The solicitation requested proposals to furnish 644 APUs and an unevaluated option quantity of up to 966 additional ones as well as for additional services. Section L-21 of the RFP provided for a single award for all listed requirements, except that line item 0004AB, for support services, could be awarded at a later date when funds became available. The Federal Acquisition Regulation (FAR) provision incorporated into the RFP by section L-10 provided for award on the basis of initial offers without discussions and advised that each initial offer should contain the offeror's best terms from a price and technical standpoint. See FAR, § 52.215-16(c). The RFP's evaluation and award factors were limited to price.

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The Army received six offers in response to the solicitation; total prices, excluding the option quantity, were as follows:

Minowitz	\$ 6,533,334.16
Coventry	6,639,248.30
FMS Corp.	6,690,386.54
Teledyne Brown Engr.	7,464,314.68
General Dynamics	12,481,364.00
Demmer Corp.	12,973,568.00

The contracting officer concluded that since none of the proposals took exception to any RFP requirements and there was significant competition, award could be made without discussions. Accordingly, award was made to Minowitz at a price of \$6,233,334.16, which did not include line item 0004AB for support services (which Minowitz priced at \$300,000.00 and Coventry priced at \$360,515.00). The Army then advised Coventry of the award and its protest followed shortly thereafter.

Under the Competition in Contracting Act of 1984 (CICA), a contracting agency may make an award on the basis of initial proposals where the solicitation advises offerors of that possibility and the existence of full and open competition or accurate prior cost experience clearly demonstrates that acceptance of the most favorable initial proposal will result in the lowest overall cost to the government. 10 U.S.C. § 2305(b)(4)(A)(ii) (Supp. III 1985); FAR § 15.610(a)(3). Here, contrary to Coventry's contention that it was not advised that the contract might be awarded on the basis of initial proposals, as explained above, the RFP incorporated by reference the FAR "Contract Award" clause, section 52.215-16(c), which expressly advises offerors that the government may award a contract on the basis of initial proposals without discussions.

Coventry also argues that discussions should have been held because, while its total price was approximately \$106,000 more than the awardee's price, its price for one line item, training, was \$417,710, compared to \$50,000 for Minowitz and prices ranging from \$50,000 to \$177,445 for the other offerors. Coventry maintains that this disparity in the prices for the training line item should have indicated to the contracting officer that Coventry may have misconstrued the training requirements and that discussions had an excellent chance of reducing the firm's price by several

hundred thousand dollars. Further, according to the protester, its price for equipment, as opposed to training and support items, was lower than the awardee's so that if the Army later were to exercise the option for an additional 966 APUs from the awardee, the total price for the basic contract plus the option quantity would be higher than an award of the same items to Coventry. Thus, Coventry argues that the contracting officer could not reasonably determine, as required by CICA, that award based on Minowitz's initial proposal would result in the lowest overall cost to the government.

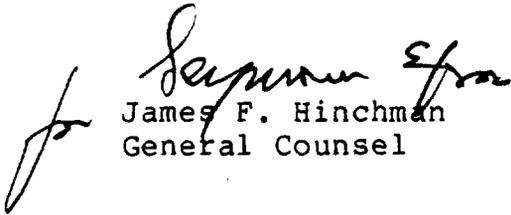
In our view, the contracting officer reasonably made the determination required by CICA--that the existence of full and open competition clearly demonstrated that acceptance of Minowitz's initial proposal would result in the lowest overall cost to the government--since there were six acceptable proposals and award was to be made to the offeror with the lowest total price, which the Army found, and Coventry does not dispute, was fair and reasonable. See Cerberonics, Inc., B-220910, Mar. 5, 1986, 86-1 CPD ¶ 221.

Moreover, although Coventry now states, after award, that it may have misconstrued the training requirements and that in discussions it could have lowered its price for that item, there is no indication in the record that the agency had a reason to believe that discussions would have resulted in a more advantageous price. Although there was a wide disparity between Coventry's price for training and the awardee's, there also were wide disparities among all the offerors' prices on a number of other line items. In our view, this situation, standing alone, did not indicate that Coventry or any other offeror misconstrued the requirements or made a pricing error. On the contrary, the training requirements were clearly set out in the RFP and, according to the agency, were further explained at a preproposal conference, so that there was no reason for contracting officials to suspect a misunderstanding. Rather, since the RFP required a fixed-price award on an all-or-none basis, we agree with the agency that the contracting officer reasonably assumed that the range of prices offered here was due to pricing strategy based on the particular circumstances of each offeror.

Finally, we reject the protester's argument regarding the significance of its option prices. Although Coventry acknowledges that option prices were not to be considered in making the award decision, the firm argues that they should have been considered in determining whether it had been clearly demonstrated that acceptance of an initial proposal would result in the lowest overall cost to the

government, as required by CICA. In our view, however, since the RFP provided that the option prices were not to be evaluated, when the contracting officer made the determination required by CICA to make award based on initial proposals he was not required to speculate as to whether the additional quantity would later be needed or whether at that time those items would be acquired under the option or in another competition. Moreover, we note that the solicitation contained an additional unevaluated option for services under which the protester's prices were higher than those bid by the awardee.

The protest is denied.

 James F. Hinchman  
General Counsel