



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Hartridge Equipment Corporation
File: B-230039
Date: March 17, 1988

DIGEST

An agency may make award on two of three line items where the third line item is found to be defective and the terms of the solicitation provide that the government may accept any item or group of items of a bid.

DECISION

Hartridge Equipment Corporation protests the award of a contract to Interstate Dieselect, Inc. under invitation for bids (IFB) No. F08637-87-B-A068 issued by Tyndall Air Force Base, Florida. The solicitation was originally for three line items of equipment, but after bid opening, the Air Force determined that the third item was defective in that it did not describe its minimum needs. Hartridge contends that it should have been given the opportunity to reevaluate its bid price based on the fact that it would be bidding on two line items rather than three.

We deny the protest.

The third line item of the solicitation invited bids on a Bacharach Instruments Fuel Injector Pump Tester, PN67-7622, or its equal, to acquire equipment capable of testing and calibrating fuel injectors used in diesel engines manufactured by both the Cummins Engine Company and the Detroit Diesel Allison Division of General Motors Corporation. While the brand name product listed was capable of the necessary dual-testing, the Air Force inadvertently omitted the required dual-testing capability from the listing of salient characteristics for the third line item.

This oversight on the part of the Air Force was discovered during the technical evaluation of the Hartridge bid. The evaluation revealed that the product offered by Hartridge

041600/135327

for the third line item was not capable of dual-testing. The contracting officer consequently made the determination that the specification for line item 3 was defective. He canceled the portion of the solicitation pertaining to item 3 and reconsidered the bids on the basis of line items 1 and 2. Interstate Dieselect was found to be low bidder and Hartridge second low bidder.

While Hartridge does not challenge the propriety of the cancellation of the third line item, it urges that the bidders should be allowed to bid on the remaining two items with the knowledge that they comprise the entire solicitation. We do not agree.

Where a partial cancellation of a solicitation is proper, as it is here, the government is not required to cancel the entire solicitation to give bidders an opportunity to rebid on the remaining items, unless there is a cogent and compelling reason to do so. See Heart of America Police Supply, et al., B-210911 et al., Apr. 17, 1984, 84-1 CPD ¶ 423. The solicitation incorporated by reference the clause set forth at Federal Acquisition Regulation § 52.214-10, subparagraph (c), which reads as follows: "The Government may accept any item or group of items of a bid, unless the bidder qualifies the bid by specific limitations." The Air Force notes that Hartridge did not qualify its bid in this regard.

We agree with the Air Force that the above-quoted language of the solicitation permitted it to accept only two items of a bid. Even if the third item had not been deleted, the terms of the IFB allow the contracting officer to accept one or two of the line items.

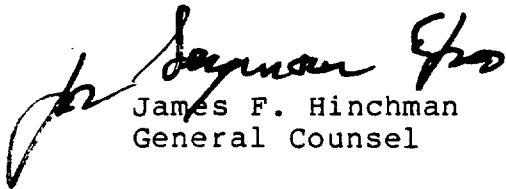
Hartridge argues that all bidders should have been informed that item 3 had been deleted and allowed to resubmit bids. It relies on a note on page 3 of the IFB for its conclusion. The note states that "Multiple Awards will not be made. Failure to bid on all line items may result in your bid being rejected as nonresponsive." Hartridge interprets this as providing that the "total bid price of all three line items would be the basis for evaluation, not the bid price of any one line item or combination thereof. . ." We do not agree.

In our view, the note merely advises bidders of the agency's intent to award a single contract, rather than make multiple awards under the solicitation. The note does not modify the government's right to limit the number of items that it will award, nor does it require that all items be awarded. In summary, there was no cogent and compelling reason to cancel

the entire solicitation so as to permit the bidders to rebid the remaining items.

Finally, Hartridge argues that should the Air Force now resolicit item 3 and should some other bidder be awarded a resultant contract, multiple awards would, in fact, be made in spite of the provisions of this IFB. If a solicitation were issued for a substitute item 3, however, it would be an independent procurement. Moreover, the solicitation would not be for item 3, but instead would contemplate a different product containing the new specifications required. The terms of this IFB would not control a new solicitation.

The protest is denied.



James F. Hinchman
General Counsel