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Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Energy Container Corporation--  
Reconsideration

**File:** B-235595.3

**Date:** December 29, 1989

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### DIGEST

Award to bidder which submitted step-ladder pricing for option items instead of single unit price called for by solicitation will not be disturbed despite the fact that for one quantity of option items (35 units) awardee's bid is slightly higher than protester's, since, given awardee's pricing scheme--under which price for 35 option items is significantly higher than price for 36 items--there is no reasonable likelihood that agency will order the smaller quantity.

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### DECISION

Energy Container Corporation (ECC) requests reconsideration of our decision Energy Container Corp., B-235595.2, Nov. 2, 1989, 89-2 CPD ¶     , in which we denied ECC's protest concerning the award of a contract to Tolo, Inc., under request for proposals (RFP) No. F04606-88-R-53353, issued by the Department of the Air Force, McClellan Air Force Base, California, for the redesign and production of primary and secondary weapons bay fuel tanks for F-111 aircraft.

We deny the request for reconsideration.

The RFP was issued for a basic requirement of 72 sets of primary and secondary tanks and an option quantity of 1 to 36 additional sets of tanks. The RFP stated that anywhere from 1 to 36 of either of the option items may be required, and included a single line for each option's unit price. The solicitation advised offerors that the agency would evaluate offers for award purposes by adding the total price for the maximum quantity of each option to the total price for the basic requirement.

In our prior decision, we found that the Air Force properly allowed correction of a mistake in Tolo's extended price,

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notwithstanding the displacement of ECC as low bidder, because the contracting officer, based on the pricing pattern that was evident in Tolo's prior submissions, had constructive knowledge of the mistake in Tolo's extended price. Additionally, we concluded that since Tolo's price would remain low under all circumstances, the agency properly determined that Tolo had offered the lowest price, despite the fact that Tolo had submitted step-ladder prices for different option quantities rather than the single unit price called for by the RFP.

ECC contends that we incorrectly concluded that Tolo's price will remain low under all circumstances, and that in fact where only 35 sets of the option items are ordered, Tolo's offer will not result in the lowest cost to the government. As explained below, while ECC is correct, we see no basis to disturb the award to Tolo.

The RFP required prices for the option quantities as follows:

| <u>Item</u> | <u>Supplies/<br/>Services</u>           | <u>Qty</u> | <u>Unit</u> | <u>Unit Price</u> | <u>Amount</u> |
|-------------|---|------------|-------------|-------------------|---------------|
| 0007        | Weapons bay<br>fuel tank<br>(secondary) | 1-36       | Ea.         | \$ ____           | \$ ____       |
| 0008        | Weapons bay<br>fuel tank<br>(primary)   | 1-36       | Ea.         | \$ ____           | \$ ____       |

Instead of the single unit prices contemplated by the RFP, Tolo submitted step-ladder prices for the option items, as follows:

| <u>Item</u> | <u>Supplies/<br/>Services</u> | <u>Qty</u> | <u>Unit</u> | <u>Unit Price</u> | <u>Amount</u> |
|-------------|-------------------------------|------------|-------------|-------------------|---------------|
| 0007        | Weapons bay                   | 1-9        | Ea.         | \$58,303          | \$ ____       |
|             | fuel tank                     | 10-35      | Ea.         | \$34,085          | \$ ____       |
|             | (secondary)                   | 36         | Ea.         | \$24,656          | \$ 887,616    |
| 0008        | Weapons bay                   | 1-9        | Ea.         | \$78,648          | \$ ____       |
|             | fuel tank                     | 10-35      | Ea.         | \$46,001          | \$ ____       |
|             | (primary)                     | 36         | Ea.         | \$33,292          | \$1,198,512   |

ECC proposed unit prices of \$9,912 and \$14,868 for option items 0007 and 0008, respectively, regardless of quantity.

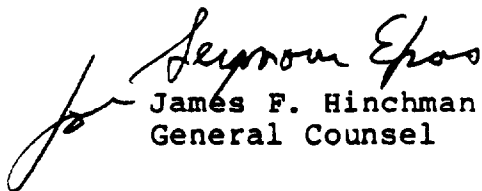
After correction of a mistake in Tolo's extended price, Tolo's price for the basic requirement was \$7,074,632, and

ECC's price for the basic requirement was \$9,006,336. Tolo's total price, with options evaluated at \$2,086,128 for the maximum quantity of 36, was \$9,160,760, or \$737,656 less than ECC's \$9,898,416 total evaluated price. On the basis of this evaluation, the Air Force awarded a contract to Tolo.

In our decision, we incorrectly used the option prices in ECC's alternate offer (\$16,388 and \$24,582 for items 0007 and 0008), rather than the option prices in ECC's basic offer (\$9,912 and \$14,868), in determining that Tolo's price would remain low compared to ECC's regardless of the quantity of option items ordered. Using the correct figures, if 35 option items are ordered, ECC's total price is \$9,873,636, compared to Tolo's price of \$9,877,642; Tolo's total price thus is \$4,006 higher than ECC's for that option quantity. Given Tolo's pricing scheme, however, the fact that Tolo's price is slightly higher than ECC's for one quantity of the option items does not in our view justify disturbing award to Tolo.

Under Tolo's pricing scheme, the price for 35 units of option item 0007 is \$305,359 more than 36 units; 35 units of option item 0008 are \$411,523 more than 36 of those units. Thus, in total, the agency would pay \$716,882 more for 35 units of each option item than for 36 units. Under these circumstances, the only reasonable course of action would be for the Air Force to order 36 units, at a lower price, rather than 35, at a significantly higher price. As a result, there is no reasonable likelihood that 35 units--the one quantity for which Tolo's price exceeds ECC's--would be ordered. Accordingly, the fact that Tolo's price is slightly higher than ECC's for 35 option units is immaterial and does not justify disturbing award to Tolo.

The request for reconsideration is denied.

  
James F. Hinchman  
General Counsel