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Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Lockheed Sanders, Inc.

File: B-239942

Date: October 12, 1990

Alan Sheplak for the protester.
David M. Bottomley for Lucas Aul, Inc., and Donald B. Kenyon for Bowmar/ALI, interested parties.
Lori S. Chofnas, Esq., Department of the Navy, for the agency.
Stephen J. Gary, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of this decision.

DIGEST

The apparent low offer on a contract for a base period and 3 option periods was properly rejected as materially unbalanced where there is a large price differential between the base and option periods, the bid does not become low until almost 90 percent of the option quantities have been acquired, and the solicitation indicates there is uncertainty as to exercise of the options due to funding constraints, because there is reasonable doubt that acceptance of the offer ultimately will result in the lowest overall cost to the government.

DECISION

Lockheed Sanders, Inc. protests the exclusion of its best and final offer (BAFO) from further consideration for award under request for proposals (RFP) No. N00140-89-R-0159, issued by the Department of the Navy for electronic testing equipment. The protester asserts that the Navy improperly determined that its proposal was materially unbalanced.

We deny the protest.

The solicitation provided for award to the low, responsible offeror, and called for a maximum of 200 electronic testing sets, to be provided as follows:

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Basic Program Requirement (BPR)	
First Article Units (FAT)	2
Production Units (PU)	4
Option Requirement I (within 90 days after government approval of first article test [FAT] report	70
Option Requirement II (within 1 year after deadline for Option I)	84
Option Requirement III (within 1 year after deadline for Option II)	40

The RFP further provided that the option quantities stated were the maximum quantities that the government would acquire upon exercise of a given option; that evaluation of offers would be based on adding the total price for the maximum requirements to the price for the basic requirement; that the government reserved the right to acquire less than the maximum quantity under each of the three options; that any offer that was materially unbalanced as to the prices for the basic requirement and the option quantities would be rejected; and that an offer would be considered materially unbalanced if it was based on prices that were significantly less than cost for some work and significantly overstated for other work.

Initially, Lockheed submitted a BAFO that provided for the following base and option prices:

BPR	$ 1,986,700
Option I	$13,556,900
Option II	$15,376,956
Option III	$ 7,748,440
Total	$38,668,996 1/

Subsequent to the submission of the first round of BAFOs, the agency amended the RFP to indicate, among other things, that the government might acquire less than the full option quantities "due to funding constraints." Following the issuance of the amendment, the agency requested a second round of BAFOs. Of the six second BAFOs submitted, Lockheed's was low overall. Lockheed's overall and average unit prices,

1/ Of the six BAFOs submitted, Lockheed's was fourth low overall.

and the corresponding prices of the second low offeror, Lucas Aul, were as follows:2/

Overall Prices:

	Lockheed	Lucas
BPR	$ 6,204,400	$ 1,846,887
Option I	$10,250,300	$11,458,300
Option II	$12,299,212	$14,034,804
Option III	$ 5,503,300	$ 7,464,800
Total	$34,257,212	$34,804,791

Average Unit Prices:

BPR		
FAT	$ 1,079,750	$295,112
Production Units	$ 1,000,000	$295,112
Option I	$ 146,433	$163,690
Option II	$ 146,419	$167,081
Option III	$ 137,582	$186,620

Based on the above prices, the Navy rejected Lockheed's offer as materially unbalanced, as defined in the solicitation, in that it was mathematically unbalanced, and there was a reasonable doubt that acceptance of the offer ultimately would not result in the lowest overall cost to the government. See generally G.L. Cornell Co., B-236930, Jan. 19, 1990, 90-1 CPD ¶ 74; D&G Contract Servs., 68 Comp. Gen. 277 (1989), 89-1 CPD ¶ 219.3/

Lockheed asserts that its prices neither overstate nor understate its costs, but reflect the actual costs that will be incurred in the production of the test sets. The protester further states that it is in the best position to know what those actual costs will be, since it has been the sole source of supply of the test sets for over 17 years. Lockheed concedes that the BPR represents a disproportionate share of the total proposed price, including all option prices. The firm explains, however, that the BPR consists of only six units that must absorb all of the manufacturing start-up

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2/ The bids of the other 4 offerors displayed a pattern similar to Lucas'. Thus, for example, Elta bid $4,000,000 for the BPR and $13,883,505 for Option I; Harris, $4,560,943 and $13,746,320; Bowmar, $3,532,800 and $14,849,990; and Dewey, $2,762,196 and $15,487,886.

3/ The Navy has withheld award pending our resolution of the protest.

costs. The protester adds that the small BPR quantity includes non-recurring costs for engineering associated with the replacement of obsolete component parts for which there are no direct substitutes, and for the stringent production processes and other requirements imposed by the specifications incorporated in the RFP. An additional non-recurring cost, according to Lockheed, is the cost of completing FAT, which is required on the first two units. Finally, Lockheed asserts that the cost of material used in the manufacture of the BPR quantity is 2-1/2 times that used in the manufacture of the option quantities, based on economies of scale, and that the fixed cost of management and support must be amortized over a smaller number of units for the BPR than for the option requirements.

An offer is materially unbalanced where (1) it is mathematically unbalanced, in that each item does not carry its share of the cost of the work, or the offer is based on nominal prices for some of the work and enhanced prices for other work; and (2) there is a reasonable basis for doubting that acceptance of the mathematically unbalanced offer will result in the lowest overall cost to the government. D&G Contract Servs., 68 Comp. Gen. 277 supra.4/

With respect to mathematical unbalancing, although there may be certain pricing variations depending on the nature of the procurement, an offer will be questioned if, in terms of the pricing structure evident among the base and option periods, it is neither internally consistent nor comparable to other offers received. D&G Contract Servs., 68 Comp. Gen. 277 supra. Thus, a large pricing differential between the base and option periods, or between one option period and another, is evidence that the offer is mathematically unbalanced. Id.

Lockheed's offer clearly is mathematically unbalanced. As noted above, none of the other five offers reflects the wide disparity between base and option period unit prices that is evident in Lockheed's. Specifically, Lockheed's average unit price for the BPR units is approximately 7 times that of the Option I and Option II units, and approximately 7-1/2 times that of the Option III units. Lucas' Option I and Option II average unit prices, in contrast, are not even twice as high as its BPR prices. See, e.g., D&G Contract Servs., 68 Comp. Gen. 277 supra (offer containing price differential

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4/ Although the concept of unbalancing generally applies to a sealed bidding situation, it also may apply to negotiated procurements where, as here, cost or price constitutes a primary basis for source selection. D&G Contract Servs., 68 Comp. Gen. 277 supra.

of 685 percent between base and option period held to be mathematically unbalanced). Although, as noted above, Lockheed asserts that it had specific reasons for structuring its offer as it did, where such disparate pricing is evident, the fact that a firm may have business reasons for structuring its offer in a certain way generally has no bearing on whether the offer is mathematically unbalanced. G.L. Cornell Co., B-236930, supra.

The offer also is materially unbalanced, in that there is a reasonable doubt that acceptance of the mathematically unbalanced offer ultimately would result in the lowest overall cost to the government. The Navy points to funding problems that it believes may preclude acquisition of some or all of the option quantities. This, together with the long lead times involved in the delivery of the option quantities, which make assumptions about exercise of the options somewhat speculative, leads the agency to conclude that there is considerable uncertainty that all options will be exercised and, therefore, whether Lockheed's offer ultimately will result in the lowest cost. We agree with the Navy's assessment.

As discussed above, the Navy had amended the solicitation to draw attention to the funding constraints. Since the record shows that Lockheed's offer would not become low until almost 90 percent of the option quantities were purchased, we believe that the Navy had a reasonable basis for doubting that an award to Lockheed would result in the lowest overall cost to the government. See, e.g., G.L. Cornell Co., B-236930, supra (even in absence of any funding problems, the fact that protester's bid would not become low until the last option year, in and of itself, would cast doubt on whether protester's mathematically unbalanced bid would ultimately provide the lowest overall cost to the government). Consequently, we agree with the Navy that the offer was materially unbalanced.

Finally, Lockheed argues that if, as the Navy asserts, the full base and option quantities of test sets will not necessarily be acquired, the Navy should revise the solicitation to reflect its actual requirements, rather than penalize an offeror such as Lockheed that structured its proposal on the assumption that all quantities would be purchased. This argument is without merit. The Navy does not maintain, and we find nothing in the record to indicate, that the agency's requirements are not as they are stated in the solicitation. Rather, the record merely indicates some uncertainty that the agency will be able to meet all of its requirements through the exercise of all of the options, due to a funding problem beyond its control. The solicitation pointed out this potential funding problem to all offerors.

The protest is denied.

for Robert P. Murphy
James F. Hinchman
General Counsel