

Mr. McArthur



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Diplomatic Painting & Building Services Co., Inc.

File : B-241687

Date: October 24, 1990

Enrique Balseiro, Esq., for the protester.
C. Douglas McArthur, Esq., Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

Protest that bid is unbalanced because it offers certain items at less than cost is dismissed where protester does not allege that bid also contained overstated charges.

DECISION

Diplomatic Painting & Building Services Co. Inc. protests the acceptance of the bids submitted by A&C Building and Industrial Maintenance and Northern Virginia Service Corporation under invitation for bids (IFB) No. GS11P90MJC0024, issued by the General Services Administration. The protester alleges that the two bids are unbalanced and should be rejected. The protester seeks award as the firm which submitted the low, responsive bid.

The agency issued the solicitation for custodial services at three federal buildings and the operation of a freight elevator at one of the buildings. The solicitation contained the standard language at Federal Acquisition Regulation (FAR) § 52.215-16 (FAC 84-58), allowing the government to reject materially unbalanced bids and defining such bids to include those based on prices significantly less than cost for some work and prices significantly overstated in relation to cost for other work.

The protester asserts that the A&C bid of \$875 per month for elevator operation is significantly below cost, which, according to the protester, is at least \$2,042 under the applicable wage determination. Similarly, the protester asserts that the Northern Virginia bid is too low to accomplish work required by contract if the bidder complies with the applicable wage determination.

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Under our Bid Protest Regulations, 4 C.F.R. § 21.3(m) (1990), our Office will not consider a protest that does not state a valid basis for protest. In this instance, the protester does not allege that the other bidders' prices are overstated in any way; in order to show that a bid is unbalanced, a protester must allege and be prepared to show that the bid includes overstated prices. Commercial Transfer Sys., Inc., B-240776, Aug. 21, 1990, 90-2 CPD ¶ 148. To the extent that the protester believes that the other bidders cannot meet their obligation to pay the applicable wage rates or perform the contract based on the prices that they have bid, there would be no basis to object to a below-cost bid so long as the bidder is otherwise determined responsible by the contracting officer. United HealthServ Inc., B-232640 et al., Jan. 18, 1989, 89-1 CPD ¶ 43. We therefore find that the protester's allegations do not state a valid ground of protest.

The protest is dismissed.

Michael R. Golden

Michael R. Golden
Assistant General Counsel