



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Uniroyal Plastics Company, Inc.

File: B-240319

Date: November 2, 1990

Mike K. Kizziah for the protester.
Douglas K. Olson, Esq., Kilcullen, Wilson and Kilcullen, for American Fuel Cell and Coated Fabrics Company, an interested party.
Lt. Col. William J. Holland, Department of the Air Force, for the agency.
Jennifer Westfall-McGrail, Esq., and Christine S. Melody Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency properly awarded all solicitation items to offeror proposing lowest total price where request for proposals did not prohibit all or none offers and offeror made its offer contingent upon receipt of all items.

DECISION

Uniroyal Plastics Company, Inc. protests the award of a contract for all items to American Fuel Cell and Coated Fabrics Company (AmFuel) under request for proposals (RFP) No. F41608-90-R-0101, issued by the Department of the Air Force for fuel cells for the T-37 aircraft. Uniroyal contends that since it submitted the low price for one of the RFP's seven line items, it should have received award for that item. Uniroyal further argues that if the Air Force did not intend to award each line item individually, it should have instructed offerors that award would be made on an "all or none" basis and solicited another round of offers.

We deny the protest.

The RFP, issued on an other than full and open competition basis due to the urgency of the requirement, requested offers on varying quantities of seven different types of fuel cells for the T-37 aircraft. With regard to the basis for award, the solicitation incorporated by reference Federal Acquisition Regulation (FAR) § 52.215-16, which

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provides that award will be made to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the government. The RFP also incorporated by reference FAR § 52.215-34, which provides that:

"In addition to other factors, offers will be evaluated on the basis of advantages and disadvantages to the Government that might result from making more than one award (multiple awards). It is assumed, for the purpose of evaluating proposals, that \$500 would be the administrative cost to the Government for issuing and administering each contract awarded under this solicitation and individual awards shall be for the items or combinations of items that result in the lowest aggregate cost to the Government, including the assumed administrative costs."

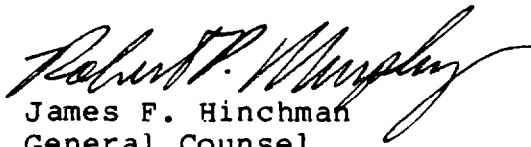
AmFuel offered the low price on six of the seven line items; Uniroyal, the only other offeror, was low on the seventh (line item No. 0003). AmFuel stated in its proposal that its prices were contingent upon its receipt of all items ("all or none"); division of the award between the two offerors therefore was not feasible. The contracting officer determined that award of all items to AmFuel would result in the lowest cost to the government since AmFuel's total price for the seven items of \$1,477,634 was lower than Uniroyal's total price of \$1,535,885. On June 26, 1990, the Air Force awarded a contract to AmFuel.

Uniroyal contends that since the RFP permitted multiple awards, the Air Force should have awarded item No. 0003, on which its price was lower than AmFuel's, to it. The protester further argues that if the agency did not intend to make multiple awards, it should have instructed offerors other than AmFuel to propose on an all or none basis.

The fact that the RFP provided for multiple awards did not bar offerors from conditioning their proposals upon receipt of the entire award, which is precisely what AmFuel did. Where a solicitation permits multiple awards and does not expressly prohibit "all or none" or similarly restricted offers, an offeror may properly condition award on receipt of all or a specified group of items. Tritech Field Eng'g, B-233357, Feb. 27, 1989, 89-1 CPD ¶ 207. Where an offeror places an "all or none" restriction on its offer, the contracting officer must determine whether award of all items, including those on which it is not low, to that offeror would result in the lowest overall cost to the government.

Here, although Uniroyal was low on item No. 0003, the contracting officer could not take advantage of its price without losing the rest of AmFuel's offer, which was overall lower than Uniroyal's. She thus properly determined that award of all seven items to AmFuel was most advantageous since it would result in the lowest cost to the government. With regard to the protester's argument that the agency should have solicited an "all or none" offer from it if it did not intend to make multiple awards, the agency did not change the terms of the RFP to require "all or none" offers; it simply selected for award an offeror that properly had chosen to offer on that basis. Under these circumstances, the agency clearly was not required to give the protester another opportunity to submit an "all or none" offer.

The protest is denied.


for James F. Hinchman
General Counsel