



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Calore Freight System, Inc.

File: B-243255.2

Date: August 2, 1991

Donald A. Tobin, Esq., Dempsey, Bastianelli, Brown & Touhey, for the protester.

Frank L. Willard, Esq., for Canupp Trucking, Inc., an interested party.

Herbert F. Kelley, Jr., Esq., Jack B. Patrick, Esq., and William J. Dowell, Esq., Department of the Army, for the agency.

Catherine M. Evans, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest alleging that awardee's bid is materially unbalanced is denied where record supports accuracy of government estimates, and thus supports agency's conclusion that acceptance of awardee's bid would result in lowest cost to the government.

DECISION

Calore Freight System, Inc. protests the award of a contract to Canupp Trucking, Inc. under solicitation No. GTR-91-03, issued by the Military Traffic Management Command, Department of the Army, on behalf of the Navy Material Transportation Office for transportation and terminal operation services. Calore alleges that Canupp's pricing should have been rejected as materially unbalanced.

We deny the protest in part and dismiss it in part.

The solicitation requested rate tenders for transportation services on five routes between Navy terminals in Norfolk, Virginia and various Navy activities in the northeast. The solicitation set forth the estimated number of round trip miles for each of the five routes, and the weekly schedule for each route. For example, route 1, a 556-mile round trip between Norfolk and Philadelphia, was to be served 5 days per week. Thus, over the 78 weeks in the 18-month contract period, the total estimated mileage for route 1 was 216,840 miles. Based on these estimated mileage figures, carriers

were to submit rates for each of the five routes in cents per mile, plus a dollar amount per trip for surveillance service. Award was to be based on the lowest total cost, computed by multiplying the estimated total miles for each route over the contract period by the number of cents per mile and adding together the figures for the five routes, plus the cost of surveillance service for the estimated 540 trips. Canupp submitted the apparent low total price of \$2,909,015; Calore's price was \$3,119,407. Accordingly, the agency made award to Canupp.

Calore alleges that Canupp's bid is mathematically unbalanced because it contains understated prices for route 4 and overstated prices for routes 1 and 3. Calore further alleges that Canupp's bid is materially unbalanced because the possibility that the agency will order extra trips for routes 1 and 3, together with Canupp's mathematically unbalanced prices, creates a reasonable doubt that award to Canupp will ultimately result in the lowest cost to the government.

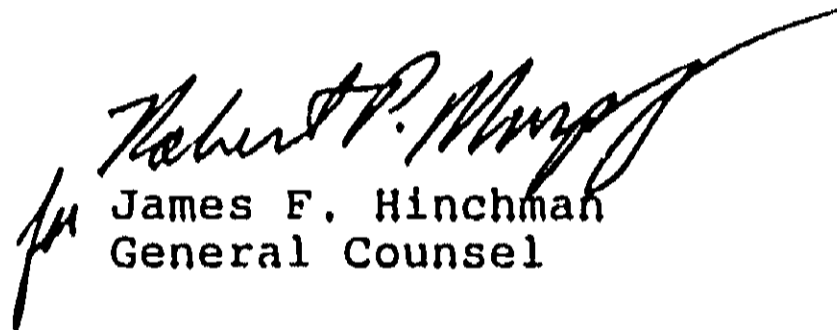
There are two aspects to unbalanced bidding: mathematical unbalancing, where a bid is based on nominal prices for some items and overstated prices for other items, and material unbalancing, where a bid is mathematically unbalanced and there is a reasonable doubt that an award based on the bid will result in the lowest overall cost to the government. OMSERV Corp., B-237691, Mar. 13, 1990, 90-1 CPD ¶ 271. Mathematical unbalancing is only improper to the extent that it results in a materially unbalanced bid. The key to this determination is the validity of the government estimates, since it is the estimate (multiplied by proposed rates) upon which cost to the government is determined; unless the solicitation estimates are inaccurate, a low evaluated offer generally is not materially unbalanced. See District Moving & Storage, Inc. et al., B-240321 et al., Nov. 7, 1990, 90-2 CPD ¶ 373.

Calore alleges that Canupp overstated its prices for routes 1 and 3 because, as the incumbent contractor, it knew that the government had ordered "a lot more" extra trips for those two routes over the past 18 months, and anticipated that the government would do so again; thus, Calore is implicitly challenging the accuracy of the agency's estimates for routes 1 and 3. However, the record does not support Calore's position. The agency reports that, in fact, over the preceding 18-month contract period only five additional 1-way trips were ordered--four for route 1 and one for route 4--compared to the 1,560 regularly scheduled trips. Based on its bid prices as submitted, in order for the ultimate cost of award to Canupp to exceed the cost of award to Calore, the agency would have to order 130 additional round trips for route 1, or 105 additional round trips for route 3. Since,

based on the Army's experience under the prior contract, there is no reason to believe that such an increase in trips would occur, Canupp's bid was not materially unbalanced; the agency properly determined that award to Canupp would result in the lowest overall cost to the government. (We note that Calore did not attempt to rebut the agency's position in its response to the agency's report.)

Calore also alleges that the solicitation creates a potential conflict of interest in that the transportation contractor, which is also responsible for loading the trucks at the Norfolk terminal, has an incentive to minimize the load per truck so that extra trips will be needed. This ground of protest is untimely, since it concerns an alleged apparent solicitation defect; protests of such alleged defects must be filed prior to the deadline for submission of offers. As Calore's protest on this basis was not filed until after bid opening, we will not consider it. 4 C.F.R. § 21.2(a)(1) (1991).

The protest is denied in part and dismissed in part.


James F. Hinchman
General Counsel