



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Gore's Security Agency, Inc.

File: B-240969.2

Date: November 6, 1991

Robert Gore for the protester.
Lynn P. Kentfield, Department of Justice, for the agency.
Charles W. Morrow, Esq., and James A. Spangenberg, Esq.,
Office of the General Counsel, GAO, participated in the
preparation of the decision.

DIGEST

Protester's low bid on a guard services procurement that was based on the protester's mistaken interpretation of the required guard wage rates was properly rejected since the protester's interpretation of the solicitation is unreasonable and the mistake is not one which may be corrected through the mistake in bid procedures.

DECISION

Gore's Security Agency, Inc. (GSAI) protests the rejection of its bid, submitted in response to invitation for bids (IFB) No. WRO-12-B-90, issued by the Immigration & Naturalization Service (INS), for guard services at the San Pedro Processing Center, California.

We deny the protest.

The IFB was issued on July 12, 1990, to obtain unarmed security guard services at the San Pedro Processing Center for 1 year with 4 option years. The IFB required bidders to enter separate unit prices for 106,000 man-hours of unarmed guard services and 9,000 man-hours of supervisory guard services.

On page I-7, in compliance with the Service Contract Act (SCA), the IFB identified the classes of service employees to be employed under the contract as Detention Officer and Supervisory Detention Officer and specified the wages and fringe benefits payable to federal employees in these

employee categories. On August 6, INS issued amendment No. A001, which incorporated a Department of Labor (DOL) wage determination (wage rate 86-428). The wage determination included various employee classifications, including "Guard I," that arguably could apply to this procurement. The amendment, however, expressly advised bidders that the rate contained in the wage determination "to be utilized for the purpose of this solicitation shall be that of Detention Officer." The minimum hourly wage for the detention officer classification was listed in the wage determination as \$11.63 plus \$.59 an hour for fringe benefits.

At bid opening, on September 21, INS received 28 bids ranging from \$4,611,250 to \$14,983,050. The low bid was rejected because it was submitted by a debarred bidder. GSAI submitted the second lowest bid at \$7,565,000. During the pre-award survey, INS discovered that GSAI's unit price was not sufficient to pay the applicable SCA rates for detention officers. Because INS suspected a possible mistake in bid, INS requested GSAI to verify its bid on December 4.

On December 8, GSAI advised INS that it had assumed INS was soliciting for Level I unarmed guard services at the SCA rate of \$6.36 per hour, instead of the rate required for detention officers, because amendment No. A001 did not contain "posting instructions."¹ GSAI requested permission to correct its bid under the mistake in bid rules, and submitted evidence to show that had it based its bid on the detention officer rate, its bid would have been \$8,781,500. After further correspondence with GSAI, and reviewing the evidence that GSAI submitted in support of its claimed mistake, INS determined that the bid could not be corrected and rejected it under Federal Acquisition Regulation (FAR) § 14.406-3(g)(5)(ii). That regulation provides for the rejection of clearly erroneous bids whose acceptance would be unfair to other bidders. On June 5, INS awarded the contract to another firm.

In challenging the propriety of INS' rejection of its bid, GSAI argues both that its original bid should have been accepted and that it should have been allowed to correct the bid to reflect the higher wage rate. First, GSAI contends that amendment No. A001 could not legally establish that the

¹What GSAI means by "posting instruction" is that the amendment should have specifically directed bidders to each specified section of the IFB that was being modified by the amendment.

detention officer rate was applicable to this IFB because the amendment did not contain "posting instructions" for modifying any particular language in the IFB. GSAI argues that, due to the lack of instructions, the amendment was ambiguous, since the IFB called for unarmed guard services, not detention officers. In other words, GSAI contends that, save for the amendment, the IFB sought Guard I employees because the IFB called only for unarmed guard services. Based upon its contention that the statement in the amendment about detention officers had no legal effect, GSAI argues that it is entitled to award at its original price bid. Alternatively, GSAI contends that it made a mistake in bid which it should have been allowed to correct.


Where there is a question as to the meaning of a solicitation requirement, our Office will resolve the matter by reading the solicitation as a whole and in a manner that gives effect to all solicitation provisions. Martin Contracting, B-241229.2, Feb. 6, 1991, 91-1 CPD ¶ 121. Under this standard, GSAI's interpretation of amendment No. A001 is clearly not a reasonable one.

While the IFB sought only unarmed guard services and in the schedule sought unit prices for "unarmed guard service," it was otherwise clear, for a number of reasons, that the unarmed guard service was to be provided by employees in the detention officer classification who would be paid at the rates applicable to that classification. First, nowhere did the IFB suggest that "Guard I" was the appropriate classification. Second, page I-7 of the IFB indicated that the detention officer classification would be applicable. Third, the amendment was absolutely clear in stating that the detention officer rate was to be used in this procurement. We are aware of no basis for the protester's assertion that the clear language of the amendment cannot be effective because of a lack of "posting instructions." In short, we find no merit to GSAI's allegations that it correctly interpreted the IFB or that the IFB was ambiguous.

Inasmuch as GSAI admits that its bid does not reflect the required detention officer wage rate, and was not intended to, its bid is not eligible for correction since a bid may only be corrected to reflect what the bid actually intended. Innovative Refrigeration Concepts, B-242515, Mar. 27, 1991, 91-1 CPD ¶ 332. Indeed, since GSAI's bid was obviously erroneous, the agency acted properly in rejecting it.

pursuant to FAR § 14.406-3(g)(5)(ii). See Martin Contracting, supra; Mullins Protective Servs., Inc., B-208674, Dec. 21, 1982, 82-2 CPD ¶ 561 (also involving the rejection of a low bid admittedly based on an erroneous wage rate).

The protest is denied.


for James F. Hinchman
General Counsel