



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: U.S. General, Inc.

File: B-245452

Date: January 2, 1992

Denver C. Snuffer, Jr., Esq., Maddox, Nelson, Snuffer & Dahle, for the protester.

Timothy A. Chenault, Esq., and William H. Campbell, United States Coast Guard, Department of Transportation, for the agency.

Anne B. Perry, Esq., and Paul Lieberman, Esq., Office of the General Counsel, GAO, participated in the decision.

DIGEST

Agency reasonably denied request for correction of a mistake in bid resulting from the alleged failure to add all of the line items where the protester failed to supply documentation evidencing that the line item rates shown on its worksheets are, in fact, the rates that were used to arrive at its initial bid, and the corrected total bid price does not equal the sum of the line items in the protester's worksheets.

DECISION

U.S. General, Inc. protests the determination by the United States Coast Guard to deny General's pre-award request to correct an alleged mistake in its low bid under invitation for bids (IFB) No. DTCG50-91-B-643419, for Pier 4 and building repairs at the Coast Guard base in Honolulu, Hawaii.

We deny the protest.

Four bids were received by the bid opening date of July 9, 1991, and General was the apparent low bidder with a bid of \$844,000. Gunco, Inc. was the second low bidder, with a bid \$1,350,371.90; the government estimate was \$1,290,000.

Since General's bid was very low, the contracting officer requested the bidder to verify its bid. After review of its bid, General notified the agency that there was a mathematical error in its bid, and requested that it be

allowed an upward correction to \$1,183,828, or alternatively that it be permitted to withdraw its bid. In support of its claim, General submitted two undated computer pricing sheets which included the line items it created to arrive at its total bid price, and which demonstrated a mathematical error.¹ The contracting officer denied General's request for correction based on her finding that there was insufficient evidence of the intended bid because General did not provide supplier or subcontractor quotes, and did not provide backup data showing how it reached its wage rates, material costs, and bond and insurance costs despite being requested to do so. The contracting officer permitted General to withdraw its bid based on the finding that there was sufficient evidence that a mistake had been made.

General argues that there was clear and convincing evidence of both the mistake and of its intended bid price. The protester contends that the backup data which the contracting officer requested is irrelevant to the mistake alleged, since the mistake was a purely mathematical one, and did not impact the prices it originally used to arrive at its bid. General contends that the requested backup data would therefore only serve to confuse the contracting officer. General explains that the mistake was the result of its failure to program the computer system it used to include in the total price certain items which it added during its bid preparation. Specifically, the protester explains that it initially programmed the computer to add all of its worksheet line items up to a line identified as 15400, but when changes were made which added items after line 15400, it forgot to reprogram the computer to include these numbers in the totals. General argues that this mistake is readily apparent from the two computer spread sheets it provided to the agency, and that the information requested from the contracting officer concerning certain breakdowns of prices would not bolster the evidence.

Generally, under Federal Acquisition Regulation (FAR) § 14.406-3(a), a procuring agency may permit a low bidder to correct a mistake in its bid prior to contract award where the bidder submits clear and convincing evidence that a mistake was made, the manner in which the mistake occurred, and the intended bid. Whether the evidence meets the clear and convincing standard is a question of fact, and we will not question an agency's decision unless it lacks a

¹The term "line items" is used in this decision to refer to General's internally created price breakdowns, not the IFB line items.

reasonable basis. Gunco, Inc., B-238910, July 17, 1990, 90-2 CPD ¶ 46. For upward correction of a low bid, worksheets may constitute clear and convincing evidence if they are in good order and indicate the intended bid price and there is no contravening evidence. Id.

The contracting agency concluded that there was insufficient information on which to base a determination of General's intended bid by clear and convincing evidence. In support of its claim, all that General submitted were two computer printouts which were undated and which contained a series of line item prices which had not been previously submitted to the agency.² General did not provide any backup pricing documents which would show its bonding and insurance rate, and rates for overhead, taxes, labor and materials which would substantiate that General created the worksheet figures during its bid preparation.³ The agency also points out that the protester's letter to the contracting officer concerning the mistake references changes in General's line items above and below line 15400, and left open a question of whether additional changes should have been made once General determined the correct line total. The agency also found that while General's profit figure was increased proportionately to the increased cost, the "general conditions" cost category did not increase. Specifically, the "uncorrected" worksheet multiplied the total hard costs by a stated 10.29 percent to arrive at the cost for "general conditions," but the "corrected" version maintains the same total figure for general conditions, and now states a 7.34 percent figure with respect to the total hard costs. While the protester argues that the costs for general conditions did not vary, the worksheet which includes a percentage figure next to the line item suggests the opposite, that is, that the amount was generated by a percentage entry. Absent any supporting backup documentation, we do not find the contracting officer's determination in this respect to be unreasonable.


Moreover, even now, the protester's "corrected" bid does not equal the sum of the line items listed in its worksheets. Specifically, the protester alleges that its total hard costs are \$925,981, whereas the correct total of the line

²Essentially, the bid consisted of total prices for categories of work and did not require individual price breakdowns to be submitted.

³While the protester disputes the agency's assertion that it requested backup data, the record demonstrates that additional information was requested, and further, the protester was clearly put on notice of this need during the protest process and still declined to submit any such data.

items provided in the protester's worksheets is \$917,781. Accordingly, on this record, we agree with the agency that the protester's refusal to submit supporting documentation concerning its line item rates raises a question as to whether the rates included in General's worksheets were the rates used during the bidding process and we find that the contracting officer reasonably concluded that General failed to establish by clear and convincing evidence its intended bid.

The protest is denied.


for James F. Hinchman
General Counsel