



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Process Control Technology, Inc.

File: B-249395

Date: October 30, 1992

Catherine G. Haynes for the protester.
Diane L. Celotto, Esq., and Jonathan H. Kosarin, Esq.,
Department of the Navy, for the agency.
Linda S. Lebowitz, Esq., and Michael R. Golden, Esq., Office
of the General Counsel, GAO, participated in the preparation
of the decision.

DIGEST

Where a single, firm, fixed-price contract is awarded to the low-priced, technically acceptable, responsible offeror for the base line items and for an option line item and when the agency exercises the other option line items the awardee remains the low-priced offeror, there is no basis to disturb the award where, under all circumstances, the award results in the lowest overall cost to the government.

DECISION

Process Control Technology, Inc. (PCT) protests the award of a contract to Sytronics, Inc. under request for proposals (RFP) No. N00140-91-R-1807, issued by the Department of the Navy for the design, fabrication, and installation of computer and information system upgrades (CISUs) for test cells used to test gas turbine engines. PCT alleges that the agency improperly accepted Sytronics's offer for award.

We deny the protest.

The amended RFP, which provided for the evaluation of all base and option quantities, required offerors to submit unit and extended prices for the following contract line item numbers (CLINs):

Base CLIN 0001--CISUs for four test cells;
installation and acceptance testing of three
CISUs; 1-year warranty;

Base CLIN 0002--training;

Base CLIN 0003--on-site technical representative;

Base CLIN 0004--technical data;

Option I, CLIN 0005--two CISUs without installation;

Option II, CLIN 0006--automatic test sequence software;

Option III, CLIN 0007--installation of 1 CISU (from CLIN 0001) and 2 CISUs (from CLIN 0005); 1-year warranty.

The RFP advised that an offer could be rejected as unacceptable if prices proposed were materially unbalanced between line items. The RFP defined a materially unbalanced offer as one based on prices significantly less than cost for some work and prices significantly overstated in relation to cost for other work, and which creates a reasonable doubt that it would result in the lowest overall cost to the government, even though it may be the low evaluated offer. The offer could also be materially unbalanced if it is determined to be or tantamount to allowing an advance payment. The RFP stated that a single award of a firm, fixed-price contract would be made to the technically acceptable, responsible offeror whose offer conforming to the solicitation was most advantageous to the government, that is, to the offeror whose total offer on all items--base and option quantities--was the lowest priced.

PCT and Sytronics submitted offers which were included in the competitive range. After discussions, each firm submitted the following best and final offer:

<u>CLIN</u>	<u>Sytronics</u>	<u>PCT</u>
Base CLINs 0001--0004	\$1,364,626	\$1,271,147
Option I, CLIN 0005	372,593	245,366
Option II, CLIN 0006	26,236	135,714
Option III, CLIN 0007	<u>43,143</u>	<u>365,777</u>
TOTAL--All CLINs	\$1,806,598	\$2,018,004

The agency awarded a contract to Sytronics as the low-priced, technically acceptable, responsible offeror for CLINs 0001 through 0004 and for CLIN 0006, i.e., the agency exercised Option II at the time of award.

PCT, which submitted the second low-priced offer for CLINs 0001 through 0007, essentially argues that the agency should have rejected Sytronics's offer as unbalanced because it believes that Sytronics's prices for the base CLINs were overstated while Sytronics' prices for the option CLINs were understated. PCT further argues that Sytronics would not

have been the low-priced offeror but for the fact that the agency improperly exercised Option II at the time of award and awarded CLIN 0006, along with CLINs 0001 through 0004, to Sytronics.

Before an offer can be rejected as unbalanced, it must be found both mathematically and materially unbalanced. An offer is mathematically unbalanced where it is based on nominal prices for some line items and enhanced prices for other line items. Where there is a reasonable doubt that acceptance of a mathematically unbalanced offer will result in the lowest overall cost to the government, the offer is materially unbalanced and cannot be accepted. See Ampex Corp., B-243855.3, Dec. 9, 1991, 91-2 CPD ¶ 525.

The record does not support PCT's allegation that Sytronics submitted an unbalanced offer since there is no question that the award to Sytronics will result in the lowest overall cost to the government. The RFP provided for the evaluation of both base and option quantities and for the award to the most advantageous offeror, that is, award was to be made to the offeror whose total offer on all items--base and option quantities--was the lowest priced. Sytronics submitted the low offer on the total base and option CLINs. The record also shows that the initial award to Sytronics for base CLINs 0001 through 0004 and option CLIN 0006 resulted in the lowest overall cost to the government.¹ The record further shows that the agency intends to exercise Options I and III and award CLINs 0005 and 0007 to Sytronics; Sytronics will remain the low-priced

¹In its comments filed September 4, 1992, PCT, for the first time, alleges that the agency improperly exercised Option II for CLIN 0006 at the time of award. PCT argues that the exercise of this option at the time of award was contrary to the terms of the solicitation and was done solely to avoid award to PCT which was low only on the four base CLINs. The agency correctly points out that these protest allegations are untimely. Our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1992), provide that protests shall be filed not later than 10 working days after the basis of protest is known or should have been known, whichever is earlier. PCT was advised in the award notice and award document, which it received in late June 1992, that the agency had awarded CLIN 0006 at the same time it awarded CLIN's 0001 through 0004. PCT's new protest allegations, filed more than 2 months after it knew the bases of protest, are untimely.

offeror. Therefore, since under all circumstances the award of a single, firm, fixed-price contract to Sytronics results in the lowest overall cost to the government, we find that there is no basis to disturb the award.²

Accordingly, the protest is denied.

Robert P. Murphy
for James F. Hinchman
General Counsel

²PCT alleges, based on its analysis of the CLIN requirements, that Sytronics will not be able to perform these requirements at the firm, fixed CLIN prices offered. This issue of whether Sytronics can satisfactorily perform the CLIN requirements at the prices offered concerns a matter of Sytronics's responsibility which we will not review absent a showing, which was not made in this case, of possible fraud or bad faith on the part of procurement officials, or that definitive responsibility criteria in the solicitation have been misapplied. 4 C.F.R. § 21.3(m)(1). Further, Sytronics's submission of an allegedly below-cost total CLIN price is not in itself legally objectionable since Sytronics will bear the risk if its technical approach results in higher costs than anticipated. See Motorola, Inc., B-236294, Nov. 21, 1989, 89-2 CPD ¶ 484.