



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: SAF Engineering Associates, Inc.

File: B-275740

Date: March 19, 1997

James E. Pinkowski, Esq., Pinkowski and Flanders, for the protester.
George N. Brezna, Esq., and Diane D. Hayden, Esq., Department of the Navy, for the agency.

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

DIGEST

Low bid was not unbalanced where there is no evidence that bid contained understated or enhanced prices.

DECISION

SAF Engineering Associates, Inc. protests the award of a contract to Advance Environmental Services under invitation for bids (IFB) No. N62472-96-B-4193, issued by the Department of the Navy, as a small business set-aside, for maintenance cleaning of ductwork, vents, diffusers and registers at the Naval Inventory Control Point in Mechanicsburg, Pennsylvania. SAF primarily argues that Advance's bid should have been rejected as materially unbalanced.

We deny the protest.

The IFB, which contemplated the award of an indefinite quantity, indefinite delivery contract for a base year, with four 1-year options, required bidders to insert a unit and extended price for each of 10 contract line items (CLIN) and a total price for all line items. The first nine items--CLINs 0001AA-0001AI--were for cleaning various estimated quantities and lengths of ducts, and the last item--CLIN 0001AJ--was for cleaning an estimated quantity of 93 air handlers. The Navy received eight bids ranging from Advance's low bid of \$344,128.75 to a high bid of \$2,875,420. SAF's bid of \$529,195.15 was second low. In response to a request from the contracting officer concerning whether Advance (the incumbent) understood what was involved in performing the required work, Advance reviewed its bid and verified its price. The agency thus made award to Advance.

SAF argues that Advance's bid was impermissibly unbalanced because it offered below-cost unit prices for CLINs 0001AA-0001AI and an overstated unit price of

\$250--compared to SAF's (\$90) and another bidder's (\$80) prices--for CLIN 0001AJ. SAF concludes that Advance's bid should have been rejected as nonresponsive.

Before a bid can be rejected as unbalanced, it must be found to be both mathematically and materially unbalanced. Oregon Iron Works, Inc., B-247845, May 27, 1992, 92-1 CPD ¶ 474. A bid is mathematically unbalanced where it is based on nominal prices for some items and enhanced prices for others. OMSERV Corp., B-237691, Mar. 13, 1990, 90-1 CPD ¶ 271. A mathematically unbalanced bid is materially unbalanced, and must be rejected, where the unbalancing is such that there is a reasonable doubt that the bid will result in the lowest overall cost to the government. Hewitt, Olson Capital Recovery Group, Inc., B-261856, Nov. 7, 1995, 95-2 CPD ¶ 210.

Advance's bid was not mathematically unbalanced. First, there is no evidence supporting SAF's claim that Advance's prices for CLINs 0001AA through 0001AI were understated--the Navy reports that Advance's prices for these CLINS are exactly the same as Advance's prices under its current contract, under which the firm has successfully performed this work. Further, there is no evidence that Advance's \$250 price for CLIN 0001AJ was overstated--the nine bids for this CLIN ranged from \$80 to \$750, with seven of the prices higher than Advance's, and the average price at \$393.69. The mere fact that SAF's and another offeror's prices were lower than Advance's does not establish price enhancement. See Hughes & Smith, Inc., B-250770, Jan. 22, 1993, 93-1 CPD ¶ 60. Since Advance's bid was not mathematically unbalanced, it could not be rejected as materially unbalanced.

SAF argues that since the IFB stated that "the contract minimum quantity is a total of \$75,000," Advance's base year price of \$68,825.75 rendered its bid nonresponsive. This argument is without merit. A minimum quantity provision serves to establish the contractor's and government's minimum obligations under the contract, that is, it establishes the minimum quantity the contractor is required to furnish and the government is required to order. See Federal Acquisition Regulation (FAR) § 16.504. A minimum quantity provision in no way precludes bidders from offering unit prices for estimated quantities that when extended and totaled come out to be below the minimum order amount specified in the IFB; no matter the price, the government will be required to order, and the bidder to provide, the minimum specified. In other words, upon acceptance of Advance's bid, the Navy was obligated to order, and Advance to provide, at least \$75,000 of services under the contract (since the contract is for an indefinite quantity, the Navy can order more

than the estimated quantities under the various CLINs). Accordingly, Advance's low price did not provide a basis for rejecting its bid.¹

SAF contends that Advance, as the incumbent, had an unfair competitive advantage under the IFB because it was in a position to know which items the agency was likely to order under the contract. The government has no obligation to equalize a competitive advantage a firm may enjoy by virtue of its incumbency or its performance under a prior government contract, unless the advantage results from a preference or unfair action by the contracting agency. Foley Co., B-253408, Sept. 14, 1993, 93-2 CPD ¶ 165. There is no evidence or allegation of preference or unfair action by the Navy.

The protest is denied.

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¹SAF also argues that the agency told bidders during a pre-bid conference that a minimum bid of \$75,000 was required for the base year of the contract. Even assuming that SAF is correct, a bidder relies on oral explanations of solicitation requirements at its own risk. See Materials Management Group, Inc., B-261523, Sept. 18, 1995, 95-2 CPD ¶ 140. Since, as indicated, the solicitation did not require minimum bids, the agency's alleged oral advice had no effect. Id.