



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Technology Services International, Inc.

File: B-278050

Date: November 25, 1997

Nancy O. Dix, Esq., Gray Cary Ware & Freidenrich, for the protester.
Gregory H. Petkoff, Esq., Department of the Air Force, for the agency.
John L. Formica, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

Apparent low bid was properly rejected as materially unbalanced where the bid, submitted in response to a solicitation providing for the award of a contract for telephone operator services for a base year with 4 option years, included a front-loaded base period price and did not become low until the third of 4 option years, thereby raising a reasonable doubt that the bid would result in the lowest ultimate cost to the government.

DECISION

Technology Services International, Inc. (TSI) protests the rejection of its bid as materially unbalanced and the award of a contract to TECHSECO, Inc., under invitation for bids (IFB) No. F09607-97-B0017, issued by the Department of the Air Force for telephone operator services at Moody Air Force Base, Georgia.

We deny the protest.

The IFB provided for the award of a firm, fixed-price contract for a base with 4 option years. The successful contractor will provide telephone switchboard services 24 hours a day, 7 days a week. The bid schedule required bidders to submit, for each period of the contract, a unit price for the services per month, and an extended price for the services per year. Bidders were informed that the agency would evaluate bids by adding the prices bid for the base and option periods. The IFB also included the standard "Contract Award - Sealed Bidding" clause, set forth at Federal Acquisition Regulation (FAR) § 52.214-10, which cautions that a bid may be rejected as nonresponsive if the prices are materially unbalanced.¹

¹This clause states that a bid "is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and if there is a reasonable doubt that
(continued...)

The agency received 17 bids by the bid opening date, with TSI and TECHSECO submitting the lowest-priced bids as follows:

	TSI	TECHSECO
Base Year	\$142,920	\$116,640
1st Option	\$130,800	\$116,640
2nd Option	\$ 89,760	\$116,640
3rd Option	\$ 77,760	\$116,640
4th Option	\$ 77,760	\$116,640
Total	\$519,000	\$583,200

The agency concluded that TSI's overall low bid was mathematically and materially unbalanced and rejected TSI's bid in accordance with the terms of the solicitation. Award was made to TECHSECO as the bidder submitting the lowest-priced, responsive bid, and this protest followed.

An examination of bid unbalancing has two aspects. First, the bid must be evaluated mathematically to determine whether the bid is based on understated prices for some work and overstated prices for other work. The second aspect--material unbalancing--involves an assessment of the cost impact of a mathematically unbalanced bid. Where there is reasonable doubt that award to the bidder submitting the mathematically unbalanced bid would result in the lowest ultimate cost to the government, the bid is materially unbalanced and may not be accepted. FAR §§ 14.404-2(g), 52.214-10(e); Westbrook Indus., Inc., 71 Comp. Gen. 139, 140 (1992), 92-1 CPD ¶ 30 at 4; Solon Automated Servs., Inc., B-206449.2, Dec. 20, 1982, 82-2 CPD ¶ 548 at 3.

With regard to service contracts that involve the evaluation of base and option periods, and where the level of service for each period is essentially the same, a large price differential between the base and option periods, or between one option period and another, is prima facie evidence of mathematical unbalancing. Westbrook Indus., Inc., *supra*, at 3; Professional Waste Sys., Inc.; Tri-State Servs. of Texas, 67 Comp. Gen. 68, 70 (1987), 87-2 CPD ¶ 477 at 3. However, the assessment of whether a bid is mathematically unbalanced does not merely involve a comparison of the percentage difference between the base and option period prices.

¹(...continued)

the bid will result in the lowest overall cost to the Government." FAR § 52.214-10(e).

The determinative question is whether the pricing structure is reasonably related to the actual costs to be incurred in each year of the contract. FAR § 52.214-10(e); Residential Refuse Removal, Inc., 72 Comp. Gen. 68, 70 (1992), 92-2 CPD ¶ 444 at 4.

Here, TSI's base year price is 59 percent higher than its price for the second option period, and 84 percent higher than its price for either the third or fourth option periods. Because the level of services required during each year of this contract is the same, this significant difference in TSI's prices indicates that its bid is mathematically unbalanced. See Residential Refuse Removal, Inc., *supra*, at 3-4. Moreover, TSI has not shown that its bid's pricing structure is reasonably related to the actual costs to be incurred in each year of the contract.² Accordingly, the agency properly found TSI's bid to be mathematically unbalanced.

In cases involving mathematically unbalanced bids which do not become low until late in the contract term, including option years, we have agreed that despite the initial intent of the agency to exercise the options, intervening events could cause the contract not to run its full term, which would result in an inordinately high cost to the government and a windfall to the bidder. Under this type of factual situation, an agency could reasonably determine that there was a reasonable doubt whether the mathematically unbalanced bid would ultimately provide the lowest cost to the government. Professional Waste Sys., Inc.; Tri-State Servs. of Texas, *supra*, at 4. Here, TSI's bid does not become low until the fourth year of a possible 5-year contract. Although TSI argues that the agency has not identified any "evidence" that it would not exercise all the contract options,³ TSI's significant front-loading provides the agency with sufficient reasonable doubt that the acceptance of TSI's

²TSI argued in its protest that its bid was not mathematically unbalanced, because its higher initial year prices included "start-up costs, necessary travel, management oversight and required training to ensure quality performance." In accordance with our Bid Protest Regulations, the agency requested that the protester provide any documents it possessed that supported this assertion. 4 C.F.R § 21.3(d) (1997). The protester complied with this request, and the agency subsequently argued in its report that "[t]he cost breakdown submitted by TSI merely shows the total labor cost for performance of the service and provides no real justification for its unbalanced bid." TSI did not respond to the agency's argument or otherwise support its initial protest claims regarding the front-loading of its bid.

³The agency identified several possibilities that could preclude the agency's exercise of the option periods of this contract, including the loss of contract funding, a termination for default, or the solicitation of telephone switchboard services on a regional basis, which is estimated to offer a higher cost savings to the government than obtaining the services on a base-by-base basis as has been done here.

bid would actually provide the lowest ultimate cost to the government. Westbrook Indus., Inc., supra, at 4. Consequently, the agency reasonably rejected TSI's bid as materially unbalanced.

The protest is denied.

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