



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Mark Dunning Industries, Inc.

File: B-234016; B-234017

Date: March 7, 1989

DIGEST

Protest that incumbent contractor for waste disposal services is at competitive disadvantage because only it allegedly knows that landfill disposal fees which firms are liable for under contract could increase significantly during contract period is academic, where agency by amendment advises all potential bidders of this and bidders thus will be competing on equal basis.

DECISION

Mark Dunning Industries, Inc. (MDI), protests the terms of invitation for bids (IFB) Nos. N62470-89-B-3998 and N62470-89-B-3999 issued by the Department of the Navy for the acquisition of household garbage collection services at the Marine Corps Air Station, Cherry Point, North Carolina. MDI argues that the IFBs fail to adequately apprise bidders of certain information regarding possible increases in landfill fees.

The IFBs, as originally issued, called for lump sum, firm fixed prices for trash removal for a base period of approximately 8 months with options to continue performance for a maximum of 52 additional months. The solicitations require the awardee to bear the cost of any landfill fees during contract performance. In this response to the protest, the Navy issued two amendments to the IFBs which advised bidders of the protest grounds and eliminated the option periods under the IFBs which reduced the contract performance period to 7 months.

The protester argues that the solicitation improperly fail to inform bidders that the disposal fees for the most practicable landfill in the area may be subject to dramatic increases within the fiscal year. MDI argues that not all bidders may be aware of this fact and, consequently, that

044781/138098

not all firms are competing on an equal basis. MDI concludes that, as the incumbent contractor with its knowledge of the potential price increase, it will be at a competitive disadvantage.

We find the protests academic. The amendments which the Navy issued advised all potential bidders of the protester's contention that the landfill fees are expected to escalate dramatically in the near future. In addition the Navy significantly shortened the contract period and thus the bidders need only consider the impact in their bid of an increase in landfill fees during a relatively brief period. Thus, the agency effectively has advised all potential bidders of the risk of the landfill fees increasing during contract performance and all bidders will be competing on an equal basis.

We dismiss the protests as academic.



Michael L. Golden
for

Ronald Berger
Associate General Counsel