



Decision

Matter of: The Povolny Group

File: B-407570

Date: January 9, 2013

James M. Povolny for the protester.
Lindsay C. Roop, Esq., Department of Veterans Affairs, for the agency.
Linda C. Glass, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

Bidder's failure to bid on an alternate item that was not selected for award by the procuring agency does not render the bid nonresponsive.

DECISION

The Povolny Group of Saint Paul, Minnesota, protests the award of a contract to RPreusser Construction, Inc., of St. Cloud, Minnesota, under invitation for bids (IFB) No. VA263-12-B-0817, issued by the Department of Veterans Affairs (VA) for replacement of deteriorated sidewalks at the VA Health Care System in St. Cloud, Minnesota. Povolny contends that RPreusser's bid is nonresponsive because the awardee did not provide a price for the alternate bid item.

We deny the protest.

BACKGROUND

The IFB, issued as a service-disabled veteran-owned small business (SDVOSB) set-aside, provided for the award of a contract for all labor, materials, tools and equipment required to replace designated sidewalks. IFB at 1. The IFB included two line items: a basic bid item and an alternate bid item. The basic bid item was for the demolition and replacement of existing designated sidewalks, concrete structures, concrete pads, ramps, brick wall sections, lighting placement and landscaping, and all items necessary for the replacement of existing designated sidewalks and addition of new sidewalk locations at the VA Health Care System in St. Cloud. Id. The alternate bid item was described as follows:

BID ALTERNATE NO. 1: Base bid minus all additional new locations that were not on original existing sidewalk plan (Deduct items from Sheet 1039-4).

Id.

Bidders were instructed to provide bid prices for both the base item and alternate bid item. The IFB stated that the agency anticipated making a single award, but that in the event that bids exceeded the available funding, “a single award will be made as according to Bid Alternate No. 1, based on available funding.”¹ Id.

The agency received 4 bids, including those submitted by Povolny and RPreusser. All bidders, except for RPreusser, submitted bid prices for both the base and alternate items. Agency Report (AR), Tab 3, Abstract of Bids. RPreusser, the apparent low bidder submitted a bid price of \$642,865 for the base item, and a dash, in lieu of a price, for the alternate bid item. AR, Tab 5, RPreusser’s Bid, at 1. The contracting officer determined that VA had sufficient funds for RPreusser’s bid of \$642,865, and award was made to RPreusser for the base item. Contracting Officer’s Statement at 1.

This protest followed.

DISCUSSION

Povolny complains that RPreusser’s bid is nonresponsive, because the awardee did not provide a bid price for the alternate bid item.²

Where a solicitation includes a base bid and alternatives, bids must be evaluated on the basis of work actually awarded. Niemela Constr. Co., B-237616, Feb. 7, 1990, 90-1 CPD ¶ 161 at 2; The Haskins Co., B-227898, Sept. 21, 1987, 87-2 CPD ¶ 285 at 2; recon. denied, Cree Constr. Co., Inc., B-227898.3, Oct. 26, 1987, 87-2 CPD ¶ 394 at 2. As a result, we have held that the failure of a bidder to provide a price for all alternates constitutes no basis, sufficient in itself, to require

¹ The IFB also included standard Federal Acquisition Regulation clause 52.232-18, which informed bidders that the agency did not presently have funds available for this contract and that the government’s obligation was contingent upon the availability of appropriated funds. RFP amend. 1, at 4.

² Povolny also argued, without explanation or support, that RPreusser’s bid was unbalanced. Protest at 2. We consider this argument to have been abandoned, where the protester in its comments did not address the agency’s response to this allegation. See Cedar Electric, Inc., B-402284.2, Mar. 19, 2010, 2010 CPD ¶ 79 at 3 n.4.

rejection of the bid. Casson Constr. Co., Inc., B-198746, Oct. 24, 1980, 80-2 CPD ¶ 318 at 5. Failure of a bidder to offer a price for all alternates will constitute a basis for rejection only if evaluation and award includes the items not bid, and this is true even where the IFB states that failure to bid on every item will cause rejection of the bid as nonresponsive. The Haskins Co., *supra*.

Since RPreusser unequivocally offered to perform the work actually awarded, *i.e.*, the basic bid item, its bid is responsive and properly may be considered for award.³ Casson Constr. Co., Inc., *supra*.

The protest is denied.

Susan A. Poling
General Counsel

³ Moreover, we have noted that a bidder, in lieu of submitting a price for an item, may indicate its intent to be obligated on a bid item by inserting in the appropriate space in the bid schedule a notation, such as a zero, the words “no charge” or a dash, and that such a notation indicates that the item will be provided at no cost or charge to the government. See Sverdrup Civil, Inc., B-278627, Jan. 23, 1998, 98-1 CPD ¶ 31 at 2; Keahey’s Moving Co., B-224273, Nov. 24, 1986, 86-2 CPD ¶ 602 at 3.