G A O
Accountability * Integrity * Reliability

Comptroller General
of the United States

United States General Accounting Office
Washington, DC 20548

Decision

Matter of: Semont Travel, Inc.

File: B-291179

Date: November 20, 2002

Dona Davison for the protester.
Mark Pestronk, Esq., for Rodgers Travel, Inc./American Express, an intervenor.
Andrew D. Fallon, Esq., Department of the Air Force, for the agency.
Louis A. Chiarella, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Award based on quotation that the agency considered unbalanced is unobjectionable where the agency considered the risk of unreasonably high prices for contract performance and reasonably determined that the unbalanced pricing did not pose an unacceptable level of risk to the government.

DECISION

Semont Travel, Inc. protests the issuance of a purchase order to Rodgers Travel, Inc./ American Express under request for quotations (RFQ) No. F05604-02-T-0025, issued by the Department of the Air Force for commercial travel management services at various Air Force installations within Colorado. Semont maintains that the Air Force failed to reasonably evaluate the risks to the government associated with Rodgers' unbalanced pricing in making its award decision.

We deny the protest.

The RFQ, issued on April 2, 2002, contemplated the issuance of a requirements-type order for a base year, with four 6-month options, to provide travel services for official travel at Peterson Air Force Base (AFB), Schriever AFB, Buckley AFB, and the Air Force Academy. The RFQ established three evaluation factors--technical acceptability, past performance, and price--and notified vendors that the past performance of technically acceptable vendors was approximately equal in importance to price. The solicitation established that award would be made to the responsible vendor whose quotation was most advantageous to the government, and that the agency would utilize a "price performance trade-off technique," whereby the two factors would be traded off, one against the other, in order to make a "best value" award determination.

The RFQ's price schedule required that vendors provide a unit price per ticketed transaction (i.e., a transaction fee), as well as an extended price for each performance period based upon agency workload estimates.[1] The RFQ informed vendors that the agency would take into account all option prices in the evaluation of price, though the evaluation of options would not obligate the agency to exercise the options. The solicitation also stated that the agency "may determine that an offer is unacceptable if the option prices are significantly unbalanced." RFQ at 13.

Nine vendors, including Semont and Rodgers, submitted quotations by the June 28 closing date. A technical evaluation team determined that six of the quotations were technically acceptable, and rated each of the vendors that submitted them as exceptional as to past performance. The agency determined that Rodgers submitted the lowest total evaluated price of $1,296,000, while Semont submitted the second-lowest total evaluated price of $1,610,280. The contracting officer, however, expressed concern over Rodgers' pricing structure, which was as follows:

	Unit Price	Extended Price
Base Period	$24.00	$648,000
Option 1	$18.00	$243,000
Option 2	$14.00	$189,000
Option 3	$10.00	$135,000
Option 4	$6.00	$81,000
Total		$1,296,000

See Agency Report, Tab 10, Source Selection Spreadsheet, Source Selection Decision Memorandum, at 1. By contrast, Semont's quotation was priced at $19.88 per ticketed transaction for the base and all option periods.

In a subsequent analysis of Rodgers' pricing, the Air Force determined that Rodgers' prices were unbalanced, but concluded that the lack of balance did not pose an unacceptable risk to the government. Agency Report, Tab 11, Price Analysis of Rodgers' Quotation, at 1; Tab 10, Source Selection Decision Memorandum, at 2. Having determined that Rodgers offered the lowest total evaluated price among

[1] While the Air Force did not guarantee any specific volume of travel services, the statement of work estimated the travel services workload at 27,000 transactions annually. RFQ, Statement of Work, at 31. The solicitation's price schedule utilized the same workload estimates in determining each vendor's extended prices. RFQ, at 2-4.

technically acceptable quotations submitted by vendors with similar past performance, the contracting officer issued a purchase order to Rodgers. Agency Report, Tab 10, Source Selection Decision Memorandum, at 2. Following a debriefing, Semont filed this timely protest.

Semont protests that the agency's decision to make award to Rodgers was improper. Specifically, the protester contends that the Air Force improperly failed to evaluate the risks to the government associated with Rodgers' unbalanced pricing.

Unbalanced pricing exists where the price of one or more contract line items is significantly overstated, despite an acceptable total evaluated price (typically achieved through the underpricing of one or more other line items). See Federal Acquisition Regulation (FAR) § 15.404-1(g)(1); Weber Cafeteria Servs., Inc., B-290085.2, June 17, 2002, 2002 CPD ¶ 99 at 3. While unbalanced pricing may increase risk to the government, agencies are not required to reject an offer solely because it is unbalanced. FAR § 15.404-1(g)(1). Rather, where an unbalanced offer is received, the contracting officer is required to consider the risks to the government associated with the unbalanced pricing in making the award decision, including the risk that the unbalancing will result in unreasonably high prices for contract performance. FAR § 15.404-1(g)(2). An offer may be properly rejected if the contracting officer determines that the lack of balanced poses an unacceptable risk to the government. Id.; L. W. Matteson, Inc., B-290224, May 28, 2002, 2002 CPD ¶ 89 at 3. Our Office will review for reasonableness both an agency's determination as to whether an offeror's prices are unbalanced, and an agency's determination as to whether an offeror's unbalanced prices pose an unacceptable risk to the government. See L. W. Matteson, Inc., supra, at 4; Gemmo Impianti SpA, B-290427, Aug. 9, 2002, 2002 CPD ¶ 146 at 2 n.1.

Our analysis in this case begins with the agency's decision to analyze Rodgers' quotation as a result of concerns about the awardee's pricing structure. While the RFQ informed vendors that the travel services workload would remain constant, the Air Force observed that Rodgers' quotation had significant unit price reductions in every performance period. The agency also noted that the magnitude of Rodgers' price reductions--beginning with a $24 unit price in the base period and ending with a $6 unit price in the last option period--was inconsistent with the pricing patterns of the other vendors. Agency Report, Tab 11, Price Analysis of Rodgers' Quotation, at 1. Based on these reasons, the agency judged Rodgers' quotation to be unbalanced. Id.

In assessing the risk associated with Rodgers' unbalanced pricing, the Air Force considered the prices the government would pay for contract performance should the option periods not be exercised. The agency found that the highest ($24) transaction fee quoted by Rodgers was "essentially the same, or less, than three of the four other technically acceptable offers received."[2] Id. Having determined that the government would not pay unreasonably high prices for contract performance, even during the base period, the Air Force concluded that Rodgers' unbalanced prices did not pose an unacceptable risk.[3] Id. As the agency properly considered the risks associated with Rodgers' pricing structure, including the risk of unreasonably high prices for contract performance, we find the agency's determination that Rodgers' quotation did not pose an unacceptable level of risk to the government to be reasonable.

Semont protests that the Air Force did not fairly and fully evaluate the risks to the government associated with Rodgers' unbalanced pricing. Specifically, Semont contends that the Air Force failed to consider that Rodgers' prices for the last two option periods were, in fact, below cost. Protest at 5-7. Semont also asserts that the agency did not consider whether the subject purchase order "would actually run its full term," in light of the planned implementation of the Defense Travel System (DTS) for the Colorado area by the fall of 2003.[4] Protest at 5. Semont alleges that because the actual contract performance period will not include all options, the Air Force will actually be paying higher prices by selecting Rodgers over Semont.[5] We find Semont's arguments unpersuasive, for the following reasons.

Even assuming that Rodgers' prices for some (or even all) option periods were below cost, we find this fact to be irrelevant to the agency's risk analysis here. The potential risk associated with unbalanced pricing arises from those line items with overstated prices, not from underpriced ones. HSG Philipp Holzmann Technischer

---

[2] The base period unit prices of the vendors, other than Rodgers and Semont, were $26.75, $24, $23.75, and $22. Agency Report, Tab 10, Source Selection Spreadsheet. We note that, as the agency essentially determined that Rodgers' highest price was not significantly overstated, the agency reasonably could have concluded that Rodgers' quotation was not, in fact, unbalanced.

[3] While recognizing that whether a firm can perform a contract at the price offered is a matter of responsibility, the agency also considered the risk to the government of Rodgers' possible nonperformance during the option periods when Rodgers' prices were lower. Id.

[4] DTS is a paperless travel system that allows the individual traveler to coordinate and arrange official travel from a desktop or laptop computer. The planned implementation of DTS, which involves the competitive award of travel services contracts for all Defense Department personnel within a specified geographic area, would result in the discontinuance of local travel service contracts such as the present one. See http://www.dtic.mil/travelink/whatisdts.html.

[5] Semont argues that its overall price would be lower than that offered by Rodgers through the end of the second option period. Protest at 5.

Serv. GmbH, B-289607, Mar. 22, 2002, 2002 CPD ¶ 67 at 6. Vendors are not prohibited from submitting below-cost quotes on fixed-price contracts, see Reece Contracting, Inc., B-285666, Aug. 21, 2000, 2000 CPD ¶ 135 at 2 n.1, and the ability of a vendor to perform at the price offered is an issue of contractor responsibility, not unbalanced pricing. See Ventura Petroleum Servs., Inc., B-281278, Jan. 21, 1999, 99-1 CPD ¶ 15 at 6.

Additionally, contrary to Semont's arguments, the agency reasonably determined it appropriate to consider all option periods in the analysis of Rodgers' prices, notwithstanding the scheduled implementation of the DTS program.[6] As part of the agency report, the contracting officer noted,

> DTS was originally scheduled for implementation approximately seven year ago. However, it has been repeatedly delayed due to difficulties in establishing standard practices and system hardware acceptable for all military installations. Therefore, the Government solicited and accepted offers under the premise the contract would run its full term.

Contracting Officer's Statement at 4. While Semont disputes the agency's conclusion regarding the implementation of DTS, and deems it unsupported, the fact remains that the Air Force properly considered this factor in its determination of the risks presented by Rodgers' pricing structure.

In our view, the agency has satisfied the FAR requirements regarding Rodgers' pricing structure, which the agency judged unbalanced, by reasonably determining that the risks posed to the government were not significant enough to render its quote unacceptable. We will not disturb an agency's assessment of the risk posed to it by unbalanced pricing when the agency reasonably considers all relevant factors. The fact that the protester disagrees or can construct a hypothetical situation under which the awardee's quotation might not be low does not render the agency's conclusion unreasonable. Reece Contracting, Inc., supra, at 5.

Lastly, Semont also asserts in its protest that the agency failed to evaluate Rodgers' pricing against the RFQ requirement that an offeror's quotation "be in line with current commercial practices," and that Rodgers does not intend to provide the travel services required by the solicitation. The agency specifically addressed and refuted these contentions in its report, explaining that Rodgers' transaction-fee pricing was consistent with current commercial practices, and its overall price was

[6] To the extent that Semont challenges the validity of the Air Force's decision to consider option prices in the evaluation of price, given the intended implementation of the DTS program, we find this argument untimely since it concerns an alleged impropriety apparent from the face of the solicitation and was not raised prior to the closing time for submission of quotations. See 4 C.F.R. § 21.2(a)(1) (2002).

determined fair and reasonable. The Air Force also pointed out that allegations concerning an agency's affirmative responsibility determination are not reviewed by our Office. In its comments, Semont at best expresses mere disagreement with the agency report and makes no substantive rebuttal to the agency's positions here. Accordingly, we consider these issues to be abandoned by the protester. Wilson 5 Serv. Co., Inc., B-285343.2, B-285343.3, Oct. 10, 2000, 2000 CPD ¶ 157 at 3 n.2.

The protest is denied.

Anthony H. Gamboa
General Counsel