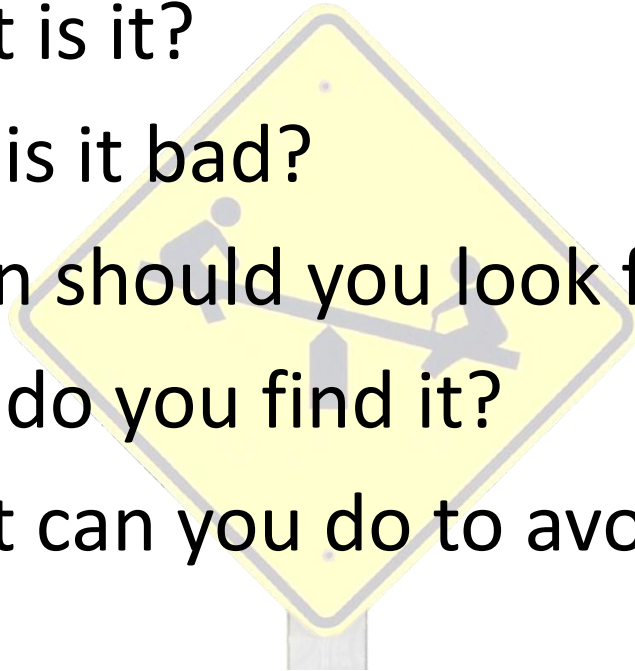


Unbalanced Bidding

- What is it?
- Why is it bad?
- When should you look for it?
- How do you find it?
- What can you do to avoid it?



What is unbalanced bidding?

Mathematically unbalanced

Materially unbalanced

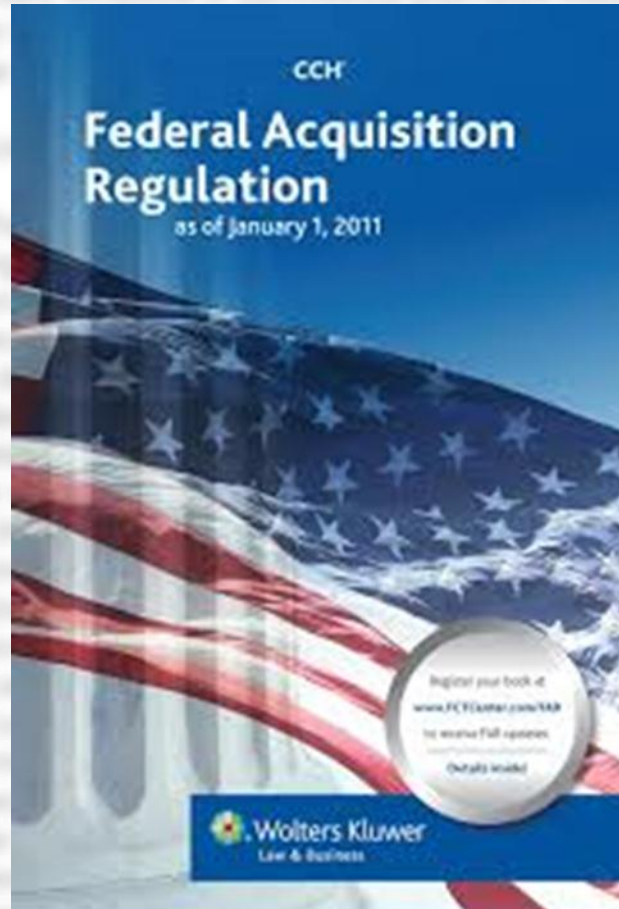
An offer is mathematically unbalanced if it is based on prices which are significantly less than cost for some contract line items **and** significantly overstated in relation to cost for others.

An offer is materially unbalanced if it is mathematically unbalanced, and if there is a reasonable doubt that the offer would result in the lowest overall cost to the Government, even though it is the lowest evaluated offer....

...or if it is so unbalanced as to be tantamount to allowing an advance payment.

A materially unbalanced bid is
non-responsive.





FAR 14.404-2 Rejection of individual bids.

(g) Any bid may be rejected if the prices for any line items or subline items are materially unbalanced....

FAR 15.404-1 Proposal Analysis Techniques

(g) Unbalanced pricing.

(1) Unbalanced pricing may increase performance risk and could result in payment of unreasonably high prices. Unbalanced pricing exists when, despite an acceptable total evaluated price, the price of one or more contract line items is significantly over or understated as indicated by the application of cost or price analysis techniques. The greatest risks associated with unbalanced pricing occur when—

- (i) Startup work, mobilization, first articles, or first article testing are separate line items;
- (ii) Base quantities and option quantities are separate line items; or
- (iii) The evaluated price is the aggregate of estimated quantities to be ordered under separate line items of an indefinite-delivery contract.

FAR 15.404-1 Proposal Analysis Techniques

(g) Unbalanced pricing.

(2) All offers with separately priced line items or subline items shall be analyzed to determine if the prices are unbalanced. If cost or price analysis techniques indicate that an offer is unbalanced, the contracting officer shall—

- (i) Consider the risks to the Government associated with the unbalanced pricing in determining the competitive range and in making the source selection decision; and
- (ii) Consider whether award of the contract will result in paying unreasonably high prices for contract performance.

FAR 15.404-1 Proposal Analysis Techniques

(g) Unbalanced pricing.

(3) An offer may be rejected if the contracting officer determines that the lack of balance poses an unacceptable risk to the Government.

FAR 15.404-1 Proposal Analysis Techniques

(f) Unit prices.

(1) Except when pricing an item on the basis of

Any method of distributing costs to line items that distorts the unit prices shall not be used.

...distributing costs equally among line items is not acceptable except when there is little or no variation in base cost.

FAR 15.814 Unbalanced Offers.

(b) An offer is mathematically unbalanced if it is based on prices which are significantly less than cost for some contract line items and significantly overstated in relation to cost for others. An offer is materially unbalanced if it is mathematically unbalanced, and if--

- (1) There is a reasonable doubt that the offer would result in the lowest overall cost to the Government, even though it is the lowest evaluated offer; or
- (2) The offer is so grossly unbalanced that its acceptance would be tantamount to allowing an advance payment.

*Part 15.814 was removed
from the FAR in 1997.*

FAR 52.214-10

CONTRACT AWARD—SEALED BIDDING (JULY 1990)

(e) The Government may reject a bid as nonresponsive if the prices bid are materially unbalanced between line items or subline items. 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 the bid will result in the lowest overall cost to the Government even though it may be the low evaluated bid, or if it is so unbalanced as to be tantamount to allowing an advance payment.

Solicitation Clause 2A105

RESPONSIVENESS/IMPROPER OFFERS (JAN 2004)

(e) Unbalanced Bidding. The State may reject an Offer as nonresponsive if the prices bid are materially unbalanced between line items or subline items. 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 the bid will result in the lowest overall cost to the State even though it may be the low evaluated bid, or if it is so unbalanced as to be tantamount to allowing an advance payment.

Federal Clause

The Government may reject a bid as nonresponsive if the prices bid are materially unbalanced between line items or subline items.

Compendium Clause

The State may reject an Offer as nonresponsive if the prices bid are materially unbalanced between line items or subline items.



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 the bid will result in the lowest overall cost to the Government even though it may be the low evaluated bid, or if it is so unbalanced as to be tantamount to allowing an advance payment.



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 the bid will result in the lowest overall cost to the State even though it may be the low evaluated bid, or if it is so unbalanced as to be tantamount to allowing an advance payment.

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

In Re: Protest of SourceCorp BPS, Inc.

Protest of Intent to Award to Lots 3 and 4 to
Advanced Imaging Systems, Inc.
Solicitation No. 5400005364

BEFORE THE CHIEF PROCUREMENT OFFICER

DECISION

CASE NO.: 2013-211

POSTING DATE: August 1, 2013

MAILING DATE: August 1, 2013

The South Carolina Consolidated Procurement Code (the Code) grants the right to protest to any actual bidder who is aggrieved in connection with the intended award of a contract. S.C. Code Ann. § 11-35-4210(1)(b).

This solicitation for a state term contract for Records Management Services to encompass, Conversion, Imaging, Retrieval, Storage and Destruction (Shredding) was issued by the Information Technology Management Office. SourceCorp BPS, Inc. (SourceCorp) protests the intended award of a contract for Lots 3 and 4 to Advanced Imaging Systems. The Chief Procurement Officer held a hearing on this matter on July 19, 2013. Present at the hearing were representatives of SourceCorp, Advanced Imaging Systems (Advanced), and the ITMO.

Findings of Fact

Solicitation Issued	March 22, 2013
Amendment 1 Issued	April 26, 2013
Intent to Award Issued	June 7, 2013
Protest Of Palmetto Received	June 12, 2013
Amended Protest of Palmetto Received	June 13, 2013
Protest of Iron Mountain Received	June 14, 2013
Protest of SourceCorp Received	June 17, 2013
Lot 1 Award Suspended	June 18, 2013
Lot 2 Award Suspended	June 18, 2013
Lot 3 Award Suspended	June 18, 2013
Protest of FivePoint Received	June 21, 2013

Background

This Invitation for Bids (IFB) was issued by ITMO for a state term contract for Records Management Services to encompass, Conversion, Imaging, Retrieval, Storage and Destruction (Shredding), on March 22, 2013.

There was one (1) amendment issued to the solicitation on April 26, 2013, which clarified solicitation requirements and revised the opening/closing date to May 15, 2013 and the intent to award date to May 30, 2013. The intent to award was issued on June 7, 2013; awarding all five (5) lots.

Protest of SourceCorp BPS, Inc.

CPO Case No. 2013-211

Posted August 1, 2013

priced bids, but a bid is not unreasonable simply because it is below-cost. Whether the awardee can perform the contract at the price offered is a matter of responsibility. This procurement is for the replacement of a state term contract for similar services and as a contractor on the previous contract, Advanced performed with similar pricing. The Code requires a determination of responsibility prior to making an award and Advanced was determined to be a responsible bidder. SourceCorp's protest that Advanced's bid should be rejected simply because the prices are, in its opinion, too low is dismissed. ¹

Unbalanced Bidding

Advanced's unusually low prices for transporting records are central to SourceCorp's third issue of protest, a claim that Advanced's bid is materially unbalanced. The solicitation warned bidders that their bids could be

Solicitation, page 13. Similar to the price unreasonableness provision, this clause finds its origin in the FAR. There are no reported decisions in South Carolina dealing with unbalanced bidding. Since our quoted solicitation language is identical to the contract language found at FAR § 52.214-10(e), the CPO looks to federal law for guidance.

FAR § 14.402(g) provides for rejection of bids "if the prices for any line items or subline items are materially unbalanced." That regulation cross-references § 15.404-1, "Proposal analysis techniques."² Section 15.404-1(f) requires that "unit prices shall reflect the intrinsic value of an item or service and shall be in proportion to an item's base cost...." It prohibits "[a]ny method of distributing costs to line items that distorts the unit prices." Section 15.404-1(g) defines unbalanced pricing, and describes the risks associated with it:

¹ This is not to suggest that a procurement officer should ignore extraordinarily low bid prices. She evaluates whether prices are too low, though, only to the extent that she is concerned that the contractor will not be able to perform the contract at that price. See, e.g., *CSE Constr.*, B-291268.2, 2002 WL 31835783. This is a matter of responsibility, not price reasonableness. E.g., *Diemaster Tool, Inc.*, B-238877, 90-1 CPD ¶375, 1990 WL 277910.

² In the federal scheme, contracting officers must prepare estimates of quantity and price before soliciting bids. Section 15-404-1 describes several methods of varying complexity for evaluating bids in relation to the contracting officer's estimates and other comparisons. South Carolina has no equivalent requirement; however, our procurement officers are trained to design evaluation criteria that will result in award to bidders who provide contract pricing most advantageous to the State.



U.S. Department
of Transportation

**Federal Highway
Administration**



U.S. Department
of Transportation
Federal Highway
Administration

Memorandum

Washington, D.C. 20590

Subject: Bid Analysis and Unbalanced Bids

MAY 16 1988

From: Associate Administrator for
Engineering and Program Development

HHO-32

To: Regional Federal Highway Administrators
Direct Federal Program Administrator

As a result of a recent Office of Inspector General field audit in Region 6, we have been requested to issue additional guidance on the subject of bid analysis and unbalanced bidding. We offer the following for your information and use in administering the Federal-aid highway program.

Policy:

The FHWA policy on analysis of contract bids is found in FHPM 6-4-1-6, paragraph 11.c. It requires the evaluation of the unit bid prices for reasonable conformance with the engineer's estimate. Bids with extreme variations from the engineer's estimate, or where obvious unbalancing of unit prices has occurred, should be thoroughly evaluated by the State highway agency (SHA) and FHWA. If the award of the contract would result in an advantage to the contractor with a corresponding disadvantage to the SHA and FHWA or if the competitive bidding process is jeopardized, then appropriate steps must be taken by the SHA or Division Administrator to protect the public interest.

Accuracy of Estimated Quantities:

When items are bid unusually high or low in relationship to the engineer's estimate, the accuracy of the estimated quantities should be checked. If, after examination, the estimated quantities are determined to be a reasonably accurate representation of actual anticipated needs, then the low bid should be further evaluated for unbalancing.

On the other hand, in cases where it is concluded, after examination, that the estimated quantities are not a reasonably accurate representation of actual anticipated needs, the SHA and division office should consider rejecting all bids, correcting the quantities, and re-advertising. However, an error in estimated quantities should not cause an automatic rejection of bids. Two factors need to be considered: (1) whether the public interest would be best served by making the award and (2) whether any bidder would be treated in an unfair manner if the award were made.

The bids should be rejected if: (1) the public interest would be best served in cancelling the defectively estimated proposal or (2) awarding the contract to the apparent low bidder using a corrected quantity estimate would be unfair to the other bidders who had relied on the original quantity estimate to develop their bid. (Attached is an example.)

Unbalanced Bids:

A mathematically unbalanced bid is one containing lump sum or unit bid items which do not reflect reasonable actual costs plus a reasonable proportionate share of the bidder's anticipated profit, overhead costs, and other indirect costs, which he/she anticipates for the performance of the items in question.

A bidder's General & Summary Form is defined as mathematically unbalanced bid as follows:

"A bid is mathematically unbalanced if the bid is structured on the basis of nominal prices for some work and inflated prices for other work; that is, each element of the bid must carry its proportionate share of the total cost of the work plus profits."

While mathematically unbalanced bids are not prohibited per se, evidence of a mathematically unbalanced bid is the first step in proving a bid to be materially unbalanced. A materially unbalanced bid has been defined as:

"A bid is materially unbalanced if there is a reasonable doubt that award to the bidder submitting the mathematically unbalanced bid will result in the lowest ultimate cost to the Government. Consequently, a materially unbalanced bid may not be accepted."
Matter of: Crown Laundry and Dry Cleaners, Comp. Gen. B-208795.2, April 22, 1983.



Reliable Trash Service, B-194760, 79-2 CPD ¶107

“...our office has recognized the two-fold aspects of unbalanced bidding. The first is a mathematical evaluation of the bid to determine whether each bid item carries its share of the cost of the work plus profit, or whether the bid is based on nominal prices for some work and enhanced prices for other work. The second aspect - material unbalancing - involves an assessment of the cost impact of a mathematically unbalanced bid. A bid is not materially unbalanced unless there is a reasonable doubt that award to the bidder submitting a mathematically unbalanced bid will not result in the lowest ultimate cost to the government.”

Copy Graphics, B-273028, 96-2 CPD ¶185

“The contracting officer determined that some of Copy Graphics's prices were excessive and others were nominal. Of particular concern to the contracting officer were, on the one hand, Copy Graphics's “no charge” (NC) entries for 9 of the 13 line items, including all of the most significant cost items relating to printing and binding and, on the other hand, Copy Graphics's prices for each of the remaining 4 items relating to the packing and mailing of the publications, which were significantly higher than those of any other bidder.”

Sanford Cooling, B-242423, 91-1 CPD ¶376

“Before a bid can be rejected as unbalanced, it must be found both mathematically unbalanced and materially unbalanced.”

CPO Decision

“To prevail on its claim that the Advanced bid is materially unbalanced, then, SourceCorp must show both (1) the unit prices do not reflect Advanced’s actual costs, plus overhead and profit (mathematically unbalanced); and (2) there is a reasonable doubt that awarding the contract to Advanced will result in the lowest ultimate cost to the State. (materially unbalanced)”

CPO Decision

“...Advanced’s unbalanced bid will not result in the lowest price to the State. Advanced’s bid for Lot 3 is materially unbalanced....

“It is clear that awarding Lot 4 to Advanced will not result in the lowest cost to the State.”

CPO Decision

“Advanced submitted mathematically and materially unbalanced bids for Lots 3 and 4. The protest of the award to Advanced Imaging Systems for Lots 3 and 4 on the basis that Advanced submitted unbalanced bids is granted and the awards for those Lots are cancelled.”

CPO Decision

“It is also apparent that a number of other bidders submitted mathematically and materially unbalanced bids for Lots 3 and 4. This was facilitated in large part by the construction of the bid schedules that failed to recognize the appropriate quantities for each line item allowing the bidders to overprice bid items they believed would be used in greater quantities than estimated in the proposal and underprice items they thought would be used in significantly lesser quantities.”

CPO Decision

“Lots 3 and 4 are remanded to ITMO for award in accordance with the Code with the strong recommendation that they be re-solicited with revised bidding schedules reflecting the appropriate anticipated quantities in order to minimize the opportunities for unbalanced bidding.”





STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
) BEFORE THE SOUTH CAROLINA
) PROCUREMENT REVIEW PANEL
) ORDER
IN RE: Appeal by Advanced Imaging)
Systems, Inc.) Case No. 2013-7
) IFB No. 5400005364
) Issued by the Information Technology)
Management Office for a state term)
Contract for Records Management Services)

Appeal by Advanced Imaging Systems

Panel Case No. 2013-7

October 30, 2013

This matter came before the South Carolina Procurement Review Panel (the Panel) pursuant to a request under section 11-35-4410(b) of the South Carolina Consolidated Procurement Code (the Procurement Code). Advanced Imaging Systems, Inc. (Advanced) appealed the August 1, 2013, decision of the Chief Procurement Officer (the CPO) for the Information Technology Management Office (ITMO) granting the protest of SourceCorp BPS, Inc. (SourceCorp) on the grounds that Advanced submitted materially unbalanced bids for Lots #3 and #4 of ITMO's invitation for bids (IFB) seeking to establish a state term contract for records management services. The Panel conducted a hearing on October 2, 2013. During the Panel hearing, M. Elizabeth Crum, Esquire; Amber B. Carter, Esquire; and Christopher M. Whelchel, Esquire, represented Advanced. Michael H. Montgomery, Esquire, represented SourceCorp, and William Dixon Robertson, III, Esquire, represented the CPO.

Findings of Fact

ITMO conducted this IFB to solicit records management services for interested agencies and/or governmental units to use under a state term contract. Record at PRP54. The desired services included "**Conversion, Imaging, Retrieval, Storage, and/or Destruction (Shredding)** of documents, regardless of the original format of the document." *Id.* (emphasis in original).

overall cost to the State even though it may be the low evaluated bid, or if it is so unbalanced as to be tantamount to allowing an advance payment.

Record at PRP59. Looking solely at this language,⁹ the Panel finds that materially unbalanced bidding is an issue of responsiveness, not responsibility. The award in this solicitation is governed by section 11-35-1520(10) of the Procurement Code, which provides that an award will be made "to the lowest responsive and responsible bidder[] whose bid meets the requirements

⁹ The CPO found that the source of this language is section 52.214-10(e) of the Federal Acquisition Regulation (FAR) and looked to federal law for guidance. Although the Panel acknowledges that the quoted IFB language is almost identical to FAR section 52.214-10(e), the Panel is not convinced that merely quoting that language without also adopting the corresponding federal framework for analyzing bids for unbalancing warrants such dependence on federal law. Specifically, the Panel first notes that, unlike the federal system, the state system does not require procurement officers to estimate quantity and price prior to soliciting an indefinite delivery, indefinite quantity contract. FAR § 16.504. Second, unlike the federal system, the state system does not have a mechanism for obtaining certified cost or pricing data with which to perform a detailed cost or price analysis such as those described in FAR section 15.401-1. Thus, the Panel finds that the federal regulatory provisions and Comptroller General decisions cited by the parties to be inapplicable. The Panel urges the State Budget and Control Board, which is the body charged with the responsibility of adopting policies and promulgating regulations in accordance with the Procurement Code, to exercise caution when borrowing concepts from the federal scheme and to ensure that the state system has in place the procedures necessary to perform similar analyses if such concepts are adopted.

⁹ The CPO found that the source of this language is section 52.214-10(e) of the Federal Acquisition Regulation (FAR) and looked to federal law for guidance. Although the Panel acknowledges that the quoted IFB language is almost identical to FAR section 52.214 10(e), the Panel is not convinced that merely quoting that language without also adopting the corresponding federal framework for analyzing bids for unbalancing warrants such dependence on federal law. Specifically, the Panel first notes that, unlike the federal system, the state system does not require procurement officers to estimate quantity and price prior to soliciting an indefinite delivery, indefinite quantity contract. FAR § 16.504. Second, unlike the federal system, the state system does not have a mechanism for obtaining certified cost or pricing data with which to perform a detailed cost or price analysis such as those described in FAR section 15.401-1. Thus, the Panel finds that the federal regulatory provisions and Comptroller General decisions cited by the parties to be inapplicable. The Panel urges the State Budget and Control Board, which is the body charged with the responsibility of adopting policies and promulgating regulations in accordance with the Procurement Code, to exercise caution when borrowing concepts from the federal scheme and to ensure that the state system has in place the procedures necessary to perform similar analyses if such concepts are adopted.

Panel Order

“...materially unbalanced bidding is an issue of responsiveness, not responsibility....”

Compare FAR Part 52.214-10 “The Government may reject a [materially unbalanced] bid as nonresponsive....”

Panel Order

“Responsiveness is determined at the time the bids are opened on the basis of the information contained in the bid.”

Compare McKnight Construction Co., 94-2 CPD ¶177 (“... material unbalancing is a matter of responsiveness, and the responsiveness of a bid must generally be ascertained from the bid documents, not from explanations made by the bidder after bids have been opened and prices exposed.”)

Panel Order

“...the following elements must be proven...to establish a materially unbalanced bid: (1) there must be evidence showing that some prices are significantly less than cost for some line items; (2) there must be evidence showing that some prices are significantly more than cost for some line items; and (3) there is a reasonable doubt that the bid will result in the lowest overall cost to the State despite being the low evaluated bid....”

Compare

CPO Decision

- (1) the unit prices do not reflect Advanced's actual costs, plus overhead and profit (mathematically unbalanced); and
- (2) there is a reasonable doubt that awarding the contract to Advanced will result in the lowest ultimate cost to the State. (materially unbalanced)

Panel Order

- (1) there must be evidence showing that some prices are significantly less than cost for some line items;
- (2) there must be evidence showing that some prices are significantly more than cost for some line items; and
- (3) there is a reasonable doubt that the bid will result in the lowest overall cost to the State despite being the low evaluated bid





State of South Carolina

Invitation for Bid

Solicitation Number:
Date Issued:
Procurement Officer:
Phone:
E-Mail Address:

DESCRIPTION: **Records Management Services to encompass, Conversion, Imaging, Retrieval, Storage and Destruction (Shredding)**

USING GOVERNMENTAL UNIT: **Statewide Term Contract**

The Term "Offer" Means Your "Bid" or "Proposal". Unless submitted on-line, your offer must be submitted in a sealed package. Solicitation Number & Opening Date must appear on package exterior. See "Submitting Your Offer" provision.

SUBMIT YOUR SEALED OFFER TO EITHER OF THE FOLLOWING ADDRESSES:

MAILING ADDRESS:

B&CB, Div. of Procurement Services, ITMO
1201 Main Street, Suite 600
Columbia SC 29201

PHYSICAL ADDRESS:

B&CB, Div. of Procurement Services, ITMO
1201 Main Street, Suite 600
Columbia SC 29201

SUBMIT OFFER BY (Opening Date/Time): **05/02/2013 @ 14:30:00** (See "Deadline For Submission Of Offer" provision)

QUESTIONS MUST BE RECEIVED BY: **04/15/2013 @ 13:00:00** (See "Questions From Offerors" provision)

NUMBER OF COPIES TO BE SUBMITTED:

CONFERENCE TYPE: **Not Applicable**
DATE & TIME:

LOCATION: **Not Applicable**

(As appropriate, see "Conferences - Pre-Bid/Proposal" & "Site Visit" provisions)

AWARD & AMENDMENTS

Award will be posted on **05/15/2013**. The award, this solicitation, any amendments, and any related notices will be posted at the following web address: <http://www.procurement.sc.gov>

Unless submitted on-line, you must submit a signed copy of this form with Your Offer. By submitting a bid or proposal, You agree to be bound by the terms of the Solicitation. You agree to hold Your Offer open for a minimum of sixty (60) calendar days after the Opening Date. (See "Signing Your Offer" and "Electronic Signature" provisions.)

NAME OF OFFEROR

(full legal name of business submitting the offer)

Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror. The entity named as the offeror must be a single and distinct legal entity. Do not use the name of a branch office or a division of a larger entity if the branch or division is not a separate legal entity, i.e., a separate corporation, partnership, sole proprietorship, etc.

AUTHORIZED SIGNATURE

(Person must be authorized to submit binding offer to contract on behalf of Offeror.)

TAXPAYER IDENTIFICATION NO.

(See "Taxpayer Identification Number" provision)

TITLE

(business title of person signing above)

STATE VENDOR NO.

(Register to Obtain S.C. Vendor No. at www.procurement.sc.gov)

PRINTED NAME

(printed name of person signing above)

DATE SIGNED

STATE OF INCORPORATION

(If you are a corporation, identify the state of incorporation.)

OFFEROR'S TYPE OF ENTITY: (Check one)

(See "Signing Your Offer" provision.)

Sole Proprietorship Partnership Other _____
 Corporate entity (not tax-exempt) Corporation (tax-exempt) Government entity (federal, state, or local)

- Invitation for Bid
- State Term Contract
- ID/IQ
- Administrative Reports
- Several incumbents
- Advanced had the highest spend of all vendors

Item	Quantity	Unit of Measure	Unit Price	Extended Price
423	1.000	Roll		
Product Cat.: 91568 - Microfiche/Microfilming Services				
Item Description: Sixteen (16) mm two-hundred fifteen (215) diazo microfilm duplication - 20 rolls and up				

Item	Quantity	Unit of Measure	Unit Price	Extended Price
424	1.000	Roll		
Product Cat.: 91568 - Microfiche/Microfilming Services				
Item Description: Thirty-five (35) mm diazo microfilm duplication - 20 rolls and up				

Item	Quantity	Unit of Measure	Unit Price	Extended Price
425	1.000	Roll		
Product Cat.: 91568 - Microfiche/Microfilming Services				
Item Description: Sixteen (16) mm one-hundred (100) silver microfilm duplication - 20 rolls and up				

Item	Quantity	Unit of Measure	Unit Price	Extended Price
426	1.000	Roll		
Product Cat.: 91568 - Microfiche/Microfilming Services				
Item Description: Sixteen (16) mm two-hundred fifteen (215) silver microfilm duplication - 20 rolls and up				

Item	Quantity	Unit of Measure	Unit Price	Extended Price
427	1.000	Roll		
Product Cat.: 91568 - Microfiche/Microfilming Services				
Item Description: Thirty-five (35) mm silver microfilm duplication - 20 rolls and up				

- Revised Bidding Schedule
- Forty-two pages
- 472 line items
- No weighting
- No quantity estimates

LOT #3 – RECORDS CONVERSION / ELECTRONIC DOCUMENT IMAGING – PAPER FILES - ITEMS #78 THROUGH ITEM #103 ON-LINE NUMBERING REMAINS THE SAME – WITH THE EXCEPTION OF #103 BEING DELETED ON-LINE

Item	Quantity	Unit of Measure	Unit Price	Extended Price
78	1.000	hour		
Product Catg.: 95882 - Records Management (Incl. Document etc.)				
Item Description: Document preparation in accordance with criteria outlined in scope of work (see page twenty-seven (27)).				

Item	Quantity	Unit of Measure	Unit Price	Extended Price
79	1.000	hour		
Product Catg.: 95882 - Records Management (Incl. Document etc.)				
Item Description: Document reassembly in accordance with criteria outlined in scope of work (see page twenty-seven (27)).				

Item	Quantity	Unit of Measure	Unit Price	Extended Price
80	1.000	each		
Product Catg.: 95882 - Records Management (Incl. Document etc.)				
Item Description: Scanning Documents – Tiff image - Black & White / Grayscale – 200 – 300 DPI (8 ½" x 11" up to 11"x 17") – Per each page from 0 to 100,000 pages				

Item	Quantity	Unit of Measure	Unit Price	Extended Price
81	1.000	each		
Product Catg.: 95882 - Records Management (Incl. Document etc.)				
Item Description: Scanning Documents – Tiff image - Black & White / Grayscale – 200 – 300 DPI (8 ½" x 11" up to 11"x 17") – Per each page from 100,001 to 500,000 pages				

Item	Quantity	Unit of Measure	Unit Price	Extended Price
82	1.000	each		
Product Catg.: 95882 - Records Management (Incl. Document etc.)				
Item Description: Scanning Documents – Tiff image - Black & White / Grayscale – 200 – 300 DPI (8 ½" x 11" up to 11"x 17") – Per each page from 500,001 to 1,000,000 pages				

Item	Quantity	Unit of Measure	Unit Price	Extended Price
83	1.000	each		
Product Catg.: 95882 - Records Management (Incl. Document etc.)				
Item Description: Scanning Documents – Tiff image - Black & White / Grayscale – 200 – 300 DPI (8 ½" x 11" up to 11"x 17") – Per each page from 1,000,001 pages and up				

Price Bands

VIII. BIDDING SCHEDULE - REVISED 4/26/2013

LOT #1 - SHREDDING / DESTRUCTION - ITEMS #1 THROUGH ITEM #29 - ON-LINE NUMBERING REMAINS THE SAME

LOT #2 - RECORDS STORAGE - RETRIEVAL - ITEMS #30 THROUGH ITEM #77 ON-LINE NUMBERING REMAINS THE SAME

LOT #3 - RECORDS CONVERSION / ELECTRONIC DOCUMENT IMAGING - PAPER FILES - ITEMS #78 THROUGH ITEM #103 ON-LINE NUMBERING REMAINS THE SAME - WITH THE EXCEPTION OF #103 BEING DELETED ON-LINE

LOT #4 - RECORDS CONVERSION / ELECTRONIC DOCUMENT IMAGING - BOOKS / NOTEBOOKS / MAPS / DRAWINGS - ITEMS #104 THROUGH ITEM #116 - ON-LINE NUMBERING REMAINS THE SAME - WITH THE EXCEPTION #106, #107, #108 AND #116 DELETED ON-LINE

LOT #5 - RECORDS CONVERSION / ELECTRONIC DOCUMENT IMAGING - MICROFILM / MICROFICHE - ITEMS #117 THROUGH ITEM #158 - ON-LINE NUMBERING REMAINS THE SAME - WITH THE EXCEPTION #135, #151 AND #158 DELETED ON-LINE

ADDITION TO LOT #3 - ITEMS #317 THROUGH ITEMS #326 - NUMBERING SEQUENCE OUT OF LINE DUE TO ON-LINE SYSTEM

ADDITION TO LOT #4 - ITEMS #327 THROUGH ITEMS #360 NUMBERING SEQUENCE OUT OF LINE DUE TO ON-LINE SYSTEM

ADDITION TO LOT #5 - ITEMS #361 THROUGH ITEMS #427 - NUMBERING SEQUENCE OUT OF LINE DUE TO ON-LINE SYSTEM

Item	Quantity	Unit of Measure	Unit Price	Extended Price
361	1.000	each		

Product Cat.: 95882 - Records Management (Incl. Document etc.)

Item Description: CD creation

Item	Quantity	Unit of Measure	Unit Price	Extended Price
362	1.000	each		

Product Cat.: 95882 - Records Management (Incl. Document etc.)

Item Description: DVD creation

Item	Quantity	Unit of Measure	Unit Price	Extended Price
363	1.000	each		

Product Cat.: 95882 - Records Management (Incl. Document etc.)

Item Description: USB drive creation

Item	Quantity	Unit of Measure	Unit Price	Extended Price
364	1.000	each		

Product Cat.: 95882 - Records Management (Incl. Document etc.)

Item Description: Optical Character Recognition (OCR)

Item	Quantity	Unit of Measure	Unit Price	Extended Price
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- Five lots
- Award by lot

Award Criteria

AWARD CRITERIA -- BIDS (JAN 2006)

Award will be made to the lowest responsible and responsive bidder(s). [06-6020-1]

AWARD BY LOT (JAN 2006)

Award will be made by complete lot(s).

AWARD TO MULTIPLE OFFERORS

Award will be made to all responsible and responsive bidders whose bid is within five (5) percent of the lowest aggregate total bid per lot.

COMPETITION FROM PUBLIC ENTITIES (JAN 2006)

If a South Carolina governmental entity submits an offer, the Procurement Officer will, when determining the lowest offer, add to the price provided in any offers submitted by non-governmental entities a percentage equivalent to any applicable sales or use tax. S.C. Code Ann. Regs 117-304.1 (Supp. 2004). [06-6057-1]

UNIT PRICE GOVERNS (JAN 2006)

In determining award, unit prices will govern over extended prices unless otherwise stated. [06-6075-1]

Q&A

35. Price Schedule Item 97 thru 102, Page 56 - - The “Item description” is Paper file pick-up/delivery service area. Is this for the On-Demand Retrieval service of documents/files that are in the possession at the Vendor’s offsite facility? Or, are these services for pick-up and delivery of documents/files from the Client’s site?

Answer: Could be either way.

58. Page 57, Lot 3 Items 97- 103, Please confirm if the unit of measure for paper files pick up is by page, file or cubic box?

Answer: Cubic box.

59. Page 57, Lot 3 Items 97- 103, If the unit of pages is per paper file, how many estimated pages are in each file?

Answer: Unknown.

How it Worked

“Lot 3 solicited Electronic Document Imaging for Paper Files and included 35 line items. Each of the 35 line items was assigned an anticipated purchase quantity of one. Bidders were required to enter a unit price for each line item. The total price for each line item was calculated by multiplying the unit price times the quantity. The total price for each line item was added together to arrive at the bid price for the Lot.”

Why that's wrong

“Assigning a uniform quantity of one for all 35 line items meant that expensive, labor intensive line items received the same weight as very inexpensive line items and ignored the fact that some line items will be purchased in greater quantity than other line items. This made it possible for bidders to overprice bid items they believed would be used in greater quantity and underprice items they believed would be used in significantly lesser quantities. ”

Why that's wrong, cont'd

“There were 35 line items included in Lot 3 and Advanced submitted the lowest bid of \$.75 for items 97 through 102, and \$0 for items 96 and 321. Advanced did not submit the low price for any of the remaining 27 line items. Some Advanced line item prices were considerably higher than the low bid.”

Why that's wrong, cont'd

“In comparing Advanced’s pricing with the pricing of two of its competitors, Palmetto Microfilm and FivePoint Solutions, in a typical scenario where 100,000 pages are delivered, scanned, and indexed with three key words the total cost to the State is as follows: ”

Delivery	Scanning (Line Item 80)	Indexing with 3 key words (Line Item 323)	Total
Advanced delivery - \$.75	Advanced - \$.05 x 100,000 = \$5,000	Advanced - \$.10 x 100,000 = \$10,000	\$15,000.75
Palmetto delivery - \$2.75	Palmetto - \$.07 x 100,000 = \$7,000	Palmetto - \$.02 x 100,000 = \$2,000	\$9,002.75
FivePoint delivery - \$8.00	FivePoint - \$.08 x 100,000 = \$8,000	FivePoint - \$.02 x 100,000 = \$2,000	\$10,008.00

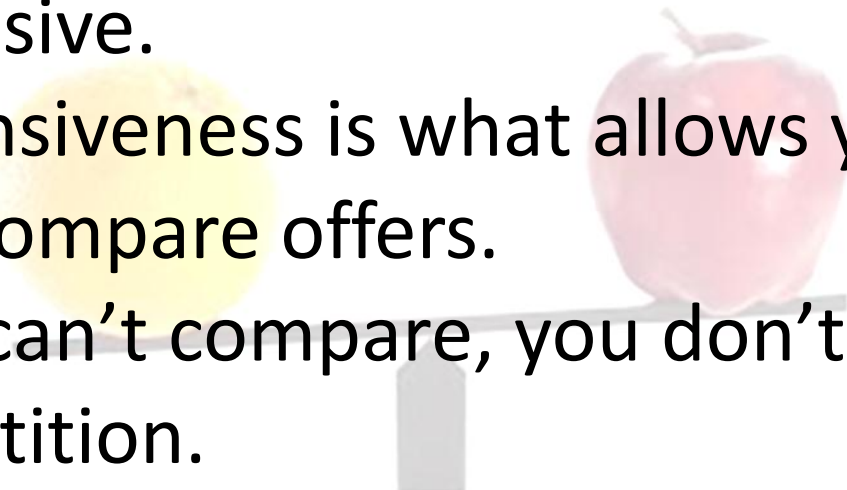
Why that's wrong, cont'd

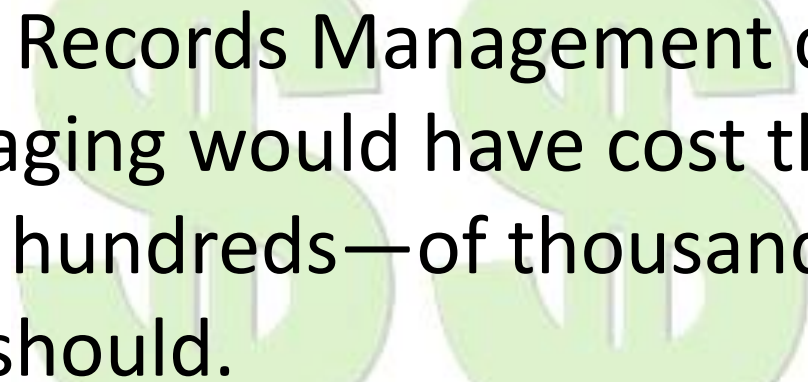
The Panel found even greater disparities in price for orders at the low end of band pricing:

Lot #3 Item No.	Advanced's Bid	Low Bid
81	100,001 pages x 0.05 = \$5,000.05	100,001 pages x 0.03 = \$3,000.03
82	500,001 pages x 0.04 = \$20,000.04	500,001 pages x 0.03 = \$15,000.03
83	1,000,001 pages x 0.04 = \$40,000.04	1,000,001 pages x 0.02 = \$20,000.02
Total for 3 line items	\$65,000.13	\$38,000.08

Why is unbalanced bidding bad?

Comparability

- A materially unbalanced bid is non-responsive.
 - Responsiveness is what allows you to fairly compare offers.
 - If you can't compare, you don't have competition.
 - Without competition there is no way for you to know if the State is getting the best deal.
- 



Awarding the Records Management contract to Advanced Imaging would have cost the State tens—maybe hundreds—of thousands of dollars more than it should.

Where should you look for
unbalanced bidding?

Look here!

- Indefinite Delivery / Indefinite Quantity contracts
- Multiple line items/unit prices
- No quantity estimate
- No weighting to reflect actual use
- No historical spend data

How do you find unbalanced bidding?

Understand the *why* of unbalancing

There are numerous reasons why a bidder may want to unbalance his/her bid on a contract. One reason is to get more money at the beginning of the project. The bidder does this by overpricing the work done early in the project. This is called "front loading" the contract. The leading case in the "front loading" area is Matter of: Riverport Industries, 64 Comp. Gen. 441 (1985). Here the Comptroller General held that if the bid is front loaded, regardless if it is the lowest bid, it "should be viewed as materially unbalanced since acceptance of the bid would result in the same evils as an advance payment. An advance payment is prohibited by law." The "front loading" may also be materially unbalanced due to the cost of money that must be paid out early versus over the normal construction of the project.

Understand the *why* of unbalancing

Another reason is to maximize profits. The bidder does this by overpricing bid items he/she believes will be used in greater quantities than estimated in the proposal and underpricing items he/she thinks will be used in significantly lesser quantities. Care should be exercised to ensure that mobilization bids do not mask unbalancing. If bidders are bidding too high on mobilization, the SHA should be encouraged to alter its specifications to reduce any accelerated payment for mobilization or to limit mobilization to a fixed percentage of the contract.

Look for “red flags”

- Significant disparities between bidders
- Superior knowledge by one or more bidders
- Higher pricing for high-volume items
- Nominal or zero bids for some line items

When a low bid contains token bid prices (i.e., penny unit bids), front loadings, or bid prices with large variations from the engineer's estimate, it should be considered a mathematically unbalanced bid and further evaluated.

Frontloading

- No “advance payments”
- Examples
 - Accelerating amortization in a multi-year contract, *Crown Laundry & Dry Cleaners*, 83-1 CPD ¶438
 - Pricing for work to be performed early in the contract is grossly out of proportion to the value of that work, *McKnight Construction Co.*, 94-2 CPD ¶177
- IT contracts
 - Performance milestones
 - Software licensing payments, *TAC 10*

Make a habit of reviewing *all* unit price bids

In analyzing bids, the following should be considered:

1. Is the bid mathematically unbalanced? Are the unit bid prices in reasonable conformance with the engineer's estimate and other bids?
2. If awarded, what effect will unbalanced bid items have on the total contract amount?
3. If quantities are incorrect, will the contract cost be increased when the quantities are corrected?
4. On items where the quantities may vary, will the lower bidder remain as low bidder?
5. If the bid is unbalanced, will the unbalance have a potential detrimental effect upon the competitive process or cause contract administration problems after award?

What can you do to avoid
unbalanced bidding?

- Estimated or minimum quantities
- Weighted evaluation criteria
 - Spend Data
 - Usage Surveys
 - Vendor Surveys
- Market Basket
 - Published
 - Blind

Examples

Weighted Price Structures

“Internal Purchasing Procedure” for University of Wisconsin system:

apply weight factors to the bid by assigning an arithmetic value (percentage or estimated quantity) to item(s) or categories of products:

- to emphasize their significance to the bid
- to indicate items that are most frequently purchased
- to indicate quantity levels that are most frequently ordered
- where the value is important or has significance

Weighting by Estimated Quantity

DLAD* 52.216-9013 Evaluation of Offers for Indefinite Delivery Type Solicitations

For requirements contracts and indefinite quantity contracts, offers are evaluated on the basis of the *estimated annual quantity*.

*Defense Logistics Agency Directive

“Standard” Quantity Increment Weighting

When offers are requested on a quantity increment basis, each contract line-item (CLIN) will be evaluated for price by:

[] applying a weighted factor of 18% to the first quantity increment, 36% to the second increment, and 46% to the third increment to arrive at an average weighted unit price.

[] applying a weighted factor of 5% to the first quantity increment, 65% to the second increment, 25% to the third increment, and 5% to the fourth increment to arrive at an average weighted unit price.

This average weighted unit price will be multiplied by the estimated annual quantity that may be procured during the contract period to arrive at a total annual evaluated price for each CLIN....

“Alternate” Quantity Increment Weighting

(1) When offers are requested on a quantity increment basis, each CLIN will be evaluated for price on a weighted basis.

(i) To be considered for award for any item, prices must be offered for each quantity increment cited. Incremental quantities within which it is anticipated orders are most likely to be issued are assigned the highest weights.

(ii) Offers will be evaluated by multiplying the designated weight by the unit price for each order increment and adding the results. Only one award will be made for each line item. Each delivery order will be issued at the price offered for that increment.

(iii) The weighted average evaluated price will be developed for each item using the formula stated in subparagraphs (A) through (C) below.

Increment	Weight	Increment	Weight
A	_____	D	_____
B	_____	E	_____
C	_____	F	_____

(A) The weighted average price (for a given item for a given year) will be arrived at as follows:

(Offered unit price) x (increment weight) = weighted unit price (Sum of weighted unit prices) divided by (the sum of the weights) = weighted average price.

(B) (The weighted average price) x (the estimated annual requirement) = estimated annual cost for a given item for a given year.

(C) The sum of the estimated annual costs for a given item for the base year plus any option periods = the total estimated cost for that item.

Market Basket Solicitation, Example 1

- IFB for commercially purchased foods, meats, & supply items
- Lot 1, Market Basket; and Lot 2, Line Items
- Lot 1 includes the highest volume items
 - All items must be bid
- Bidders must bid at least 80% of Lot 2 items
- Award of both lots to one vendor
- Points awarded for price in each lot
 - Declining points relative to best price

Market Basket Solicitation, Example 2

- IFB for maintenance repair & operational (MRO) supplies
 - Lot 1, Industrial Supplies, including sublots
 - Lot 2, Fasteners
 - Lot 3, Electrical Supplies
 - Lot 4, Janitorial Supplies
- IFB has “historic annual spend” for each lot and subplot
- Market basket based on historic usage
- Award of each lot to two bidders with lowest price on market basket items

Market Basket Solicitation, Example 3

- IFB for requirements contract for electronic key control systems
 - No minimum or estimated quantities
- “Line Item 1” is percent discount from catalog/price list
 - Not used for evaluation
- Market basket holds seven generic items
 - Bidders must identify by brand and model
 - Price must be calculated by discount from CLIN 1 applied to current catalog prices
 - Bidbased on historic usage
- Single award to bidder with lowest market basket price

Market Basket Solicitation, Example 4

“Internal Purchasing Procedure” for University of Wisconsin system:

a market basket is a short list of items from a larger list of related products [i.e. office supplies]. Use this method of awarding the bid to simplify the bid award process and to ensure that you are getting the best price for the products purchased in higher quantities, or those that have higher cost. The market basket must be determined prior to bid opening and be revealed at bid opening. The value in not revealing during the bid process is to avoid low-ball prices.

Resources

- Procurement Review Panel Order, Appeal by Advanced Imaging Systems, Panel Case No. 2013-7 (October 30, 2013)
- CPO Decision, Protest of SourceCorp BPS, Inc., Case No. 2013-211 (posted August 1, 2013)
- SC Compendium Clause 2A105 Responsiveness/Improper Offers (Jan 2004)
- FAR 14.404-2 Rejection of individual bids.
- FAR 15-404-1 Proposal Analysis Techniques.
- Former FAR 15.814 Unbalanced Offers.
- FAR 52.214-10 Contract Award—Sealed Bidding (July 1990)
- Memorandum RE Bid analysis and Unbalanced Bids, US Department of Transportation Federal Highway Administration, May 16, 1988
- CPO Decision, Protest of South Carolina Safety Co., Inc., Case No. 2013-123 (posted August 26, 2013)

Resources, cont'd

- *Reliable Trash Service*, 79-2 CPD ¶107
- *Copy Graphics*, 96-2 CPD ¶185
- *Sanford Cooling*, 91-1 CPD ¶376
- *Crown Laundry & Dry Cleaners*, 83-1 CPD ¶438
- *McKnight Construction Co.*, 94-2 CPD ¶177
- DLAD 52.216-9013 Evaluation of Offers for Indefinite Delivery Type Solicitations
- Food & meat IFB (Example 1) (link only)
- MRO Supplies IFB (Example 2)
- Electronic Key Control Systems IFB (Example 3)
- University of Wisconsin IPP (Example 4)



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