

## **IN BEST VALUE SELECTION, AGENCY MUST CONSIDER PRICE**

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In a recent case the GAO reminded agencies that in any type of best value selection (for a contract, or even for a Blanket Purchasing Agreement (“BPA”)), they must consider price. *Glotech, Inc.*, B-406761, Aug. 21, 2012. The case involved the Agency for International Development (“AID”) program known as “USAID IT Forward,” for purchase of information technology supplies and services. The potential orders under the award totaled \$900 million.

This was a procurement for a BPA among GSA schedule 70 holders (which is a schedule for general purpose commercial information technology equipment, software and services). The RFQ specified that award would be made on a best value basis, considering price and six technical factors. Price was deemed a significant factor in the best value tradeoff.

Upon receipt of the quotations, the contracting officer assigned point scores for the technical factors and ranked all proposals from 1 to 11. Then, the contracting officer reviewed the cost/price quotations, but concluded that direct comparison of quotations was not possible because each vendor quoted different discounts and could offer additional discounts when the task orders were issued. Accordingly, the contracting officer merely listed the labor categories, discounts and hourly rates without making any comparative analysis of price. The contracting officer then selected the 7 highest technically scored quotes with which to establish BPAs. The agency performed no cost/technical tradeoff.

AID attempted to argue that a best value tradeoff was not applicable to the issuance of multiple BPAs. However, this directly contradicted the solicitation’s statement that AID would make an evaluation under the cost/price factor and would include cost/price as a significant factor. The Government Accountability Office (“GAO”) stated that AID conducted neither an evaluation nor a tradeoff, and the selection was inconsistent with the RFQ and the requirements in FAR 8.405-3, which states that price must be part of any best value determination establishing a BPA.

In sustaining the protest against this selection, GAO concluded that AID gave no meaningful consideration to cost/price in selecting the BPA recipients, in violation of both the FAR and the solicitation, and therefore made an improper best value decision.

**TIP:** Agencies must always consider price in any award. In sealed bidding the importance of price is obvious. In negotiated procurement, the FAR notes that

An agency can obtain best value in negotiated acquisitions by using any one or a combination of source selection approaches. In different types of acquisitions, the

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relative importance of cost or price may vary. For example, in acquisitions where the requirement is clearly definable and the risk of unsuccessful contract performance is minimal, cost or price may play a dominant role in source selection. The less definitive the requirement, the more development work required, or the greater the performance risk, the more technical or past performance considerations may play a dominant role in source selection.

FAR 15.101.

The procurement statutes require the evaluation of price in any selection, and state that an executive agency must “include cost or price to the Federal Government as an evaluation factor ... in the evaluation of proposals.” 41 U.S.C. § 253a (c) (1)(b); 10 U.S.C. § 2305(a)(3)(A)(iii)).

So, price may be more or less important, depending on what the solicitation states. But it can never be ignored.