



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

31113

B-178386

June 25, 1973

The Honorable Howard H. Callaway
The Secretary of the Army

Dear Mr. Secretary:

Reference is made to letter SADSS/GHH/695-2008/msl of May 17, 1973, from the Administrative Assistant, Office of the Secretary of the Army, forwarding a report on the protest of the SDA Corporation (SDA) under invitation for bids No. DAHCl5-73-B-0058, issued by the Defense Supply Service, Washington, D. C.

The invitation was issued to procure the conversion of Army Personnel Information Systems Directorate Military Occupational Data Bank/Computerized Occupational Data Analysis Programs questionnaires to magnetic tape by use of the mark sense and optical character reader. Bid prices submitted were:

SDA Corporation	\$23,032.32
Central Data Processing, Inc.	27,060.00
National Scanning, Inc.	54,198.00

The contracting officer determined the low bid submitted by SDA to be nonresponsive for failure to include prices for all the items upon which bids were requested. SDA bid the invitation, section "E," as follows:

E-3. COST/PRICE SCHEDULE:	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001 Conversion of MODB/CODAP Questionnaire Printer Proofs to Magnetic Tape				

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E-3. COST/PRICE SCHEDULE	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001AA Regular Schedule ²	ESTIMATED ¹ 7,680	Pg.	.024	184.32
0001AB Emergency Schedule ²	Indef.	Pg.		
0002 Conversion of MODB/COJAP Questionnaires to Magnetic Tapes				
0002AA Regular Schedule ²	ESTIMATED ⁴ 902,000	Pg.		21,648.00
0002AB Emergency Schedule ²	Indef.	Pg.		
0003 Pickup and Delivery				
0003AA Tempo "A" - Regular Schedule ²	ESTIMATED 100	ROUND TRIP	6.00	600.00
0003AB Tempo "A" - Emergency Schedule ²	Indef. ³	Round Trip		
0003AC Hoffman Building - Regular Schedule ²	ESTIMATED 100	Round Trip	6.00	600.00
0003AD Hoffman Building - Emergency Schedule	Indef. ³	Round Trip		
TOTAL PRICE				23,032.32

It is the position of the contracting officer that the SDA bid is nonresponsive because it contained no prices for the emergency schedules. The cover page to the invitation, entitled "Information to Offerors," instructed bidders that in order for a bid to be found responsive the bidder would have to "fill in the pricing information (both unit price and dollar amount) for all procurable items detailed in Section E."

SDA contends that finding its bid nonresponsive is an unreasonably severe penalty for minor clerical omissions and also is contrary to the pertinent portions of the Armed Services Procurement Regulation (ASPR)

which provide for correction of minor errors and deficiencies. As to the minor nature of these omissions, SDA notes that the items were not to be considered in bid evaluation and that the services were of indefinite quantity and under prior contracts had never been required of the contractor.

We do not believe that the failure of SDA to quote prices for the indefinite quantity emergency schedules may be considered as a material deviation so as to render that firm's bid nonresponsive. We see no substantial difference between a bid offering unreasonably high prices for these items and a bid without any prices quoted. Since an otherwise proper bid could not be rejected because of high prices for the indefinite quantity schedules inasmuch as these prices were not to be considered in award evaluation, we see no reason why the absence of prices on these schedules should result in rejection of the bid. See 51 Comp. Gen. 528 (1972).

Accordingly, we believe that consideration of the SDA bid for award would be proper notwithstanding that firm's failure to submit prices on the indefinite quantity emergency schedules.

As this decision contains a recommendation for corrective action to be taken, your attention is directed to section 236 of the Legislative Reorganization Act of 1970, 84 Stat. 1140, 1171, which requires that you submit written statements to certain committees of the Congress as to the action taken. The statements are to be sent to the Committees on Government Operations of both Houses not later than 60 days after the date of this decision and to the Committees on Appropriations in connection with the first request for appropriations made by your agency more than 60 days after the date of this decision.

Sincerely yours,

Paul G. Dembling

For the Comptroller General
of the United States