

GOVERNMENT OF THE DISTRICT OF COLUMBIA
CONTRACT APPEALS BOARD

717 14th STREET, N.W., Suite 430
Washington, D.C. 20005

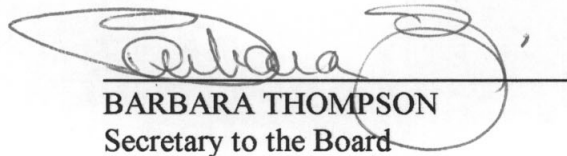
January 7, 1998

TO: Frank Ukoh, President
IIU Consulting Institute, Inc.
1313 North Capitol Street, N.E.
Washington, DC 20002

Howard S. Schwartz, Esquire
Warren J. Nash, Esquire
Assistants Corporation Counsel
Office of the Corporation Counsel
441 4th Street, N.W., 10th Floor
Washington, DC 20001

SUBJECT: CAB No. P-526, IIU CONSULTING, INC.

Attached is a copy of the Board's Opinion in the above-reference protest.


BARBARA THOMPSON
Secretary to the Board

GOVERNMENT OF THE DISTRICT OF COLUMBIA
CONTRACT APPEALS BOARD

PROTEST OF:

IIU CONSULTING INSTITUTE, INC.)	
)	CAB No. P-526
Under Solicitation No. 7512-AA-03-1-SFI)	

For the Protester: Mr. Frank Ukoh, *pro se*. For the Government: Howard Schwartz, Esq., and Warren J. Nash, Esq., Assistants Corporation Counsel.

Opinion by Administrative Judge Jonathan D. Zischkau, with Chief Administrative Judge Lorilyn E. Simkins and Administrative Judge Phyllis W. Jackson, concurring.

OPINION

IIU Consulting Institute, Inc. ("IIU") protests the determination of the contracting officer that IIU's low bid was unrealistically low and the further determination to award to the next low bidder. We deny the protest.

FACTS

On October 28, 1997, the District's Office of Contracting and Procurement issued Solicitation No. 7512-AA-03-1-SFI in the small business set-aside market for janitorial services at twelve facilities of the Department of Administrative Services for a term of 120 days. (Agency Report ("AR"), Ex. 1). Bids were due no later than October 31, 1997, and pricing was requested for two aggregate award groups. Aggregate Group One, the only award group relevant in this protest,¹ covered six of the twelve facilities. IIU was the incumbent contractor for three of those six facilities. The contracting agency prepared a low and high government estimate for Aggregate Group One of \$98,956.44 and \$116,419.35, respectively. (AR Ex. 2). Bid opening revealed that IIU submitted the apparent low bid of \$78,126.68 for Aggregate Group One, followed by MKD Cleaning Service, Inc., with the second low bid of \$117,357, and C.P.F. Corporation with the high bid of \$129,600. (AR Ex. 3).

When IIU learned that its bid was going to be rejected for being too low to provide the required services, it filed its protest on November 14, 1997.

On November 17, 1997, the District's Chief Procurement Officer ("CPO") executed a determination and findings for awarding the Aggregate Group One contract to MKD Cleaning Service rather than IIU. The CPO determined that IIU's bid price was unrealistic because the bid was substantially below the government's estimate, and IIU would not be able to provide the

¹ IIU received award under Aggregate Group Two and that award is not at issue here.

required man hours at IIU's bid price. (AR Ex. 4). Thereafter, the District awarded a contract for Aggregate Group One to MKD Cleaning Service.

The District filed its Agency Report on December 9, 1997. Exhibits 2 and 3 of the Agency Report show the calculations used in arriving at the government's low and high estimates. To calculate its government estimates, the agency identified estimated total annual hours for each of the six facilities in Aggregate Group One. It multiplied the sum of those facility totals by a janitorial wage rate to arrive at an unburdened annual labor cost of \$212,800.59. Then it applied various labor burden rates; material, supplies, and equipment rates; a G&A rate; and profit to arrive at an annual total cost. That total is labeled the "High Total." The "Low Total" was calculated by applying a 15 percent negative variance. The annual totals were divided by 12 to yield monthly rates which were multiplied by 4 to provide the 120-day high and low estimates.

In its December 22, 1997 comments on the Agency Report, IIU contends that Exhibits 2 and 3 should be rejected because they show that the government estimates are overstated. IIU states that a number of services required under its prior annual contract are not required under the present solicitation. IIU has not made its annual contract a part of the protest record to enable us to make any useful comparison. Moreover, one of the tasks IIU claims is not required under the present solicitation, interior glass cleaning, appears to be required under Section C.25.1 of the solicitation's scope of work. IIU argues that its monthly unit bid prices under the present solicitation for a 120-day term contract compares favorably with prior contract prices under annual contracts with greater service requirements.

IIU also contends that the government estimates erroneously assume a 12 hour per day requirement -- rather than a 12 hour per week requirement -- for one of the facilities. IIU's interpretation apparently is based on Section C.5, entitled "Time Restraints," which provides that cleaning at the one facility in question must be accomplished "between 8:00 a.m. and 12:00 p.m., Mondays, Wednesdays and Fridays." (Section C.5.2). That provision, in our view, does not define any specific number of required hours of cleaning. It merely advises the contractor of the time periods that cleaning may take place. IIU has not demonstrated any error in the government's estimated total annual hours for each of the six facilities in Aggregate Group One.

DISCUSSION

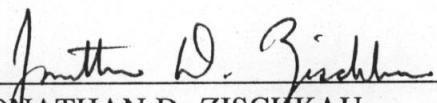
We exercise jurisdiction over the protest pursuant to D.C. Code § 1-1189.3(a)(1) (Supp. 1997).

IIU has not persuaded us that the government's high and low estimates were unreasonable. IIU has not presented adequate evidence casting doubt on the agency's total annual manhour estimates for the six Aggregate Group One facilities. Exhibit 2 of the Agency Report also shows that the manhour estimates are very consistent with the manhour estimates calculated using GSA's manhour cleaning rates using facility square footage. The government's high estimate, \$116,419,

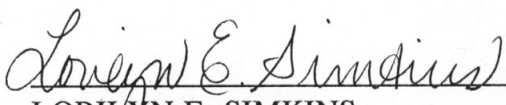
reflects these manhour totals with labor burden and the modest estimates of material, supplies, and equipment costs, overhead, and profit. The low estimate essentially removes the material, supplies, and equipment costs, overhead, and profit. IIU's bid was approximately \$20,000 below the low estimate. On the record presented, the CPO's determination that IIU's bid was unrealistically low is reasonable.

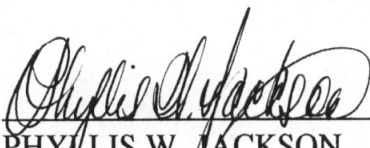
Accordingly, IIU's protest is denied.²

DATE: January 7, 1998


JONATHAN D. ZISCHKAU
Administrative Judge

CONCURRING:


LORILYN E. SIMKINS
Chief Administrative Judge


PHYLLIS W. JACKSON
Administrative Judge

² In reviewing the terms and conditions of the present solicitation, we note that the disputes clause, Section I.14, and the bid protest clause, Section L.11, have not been revised to reflect the changes made by the Procurement Reform Amendment Act of 1996.