

## General Legal Approach to Bundling or Consolidating of Requirements

In preparing a solicitation for supplies or services, a contracting agency must specify its needs and solicit offers in a manner designed to achieve full and open competition and to include restrictive provisions or conditions only to the extent necessary to satisfy the agency's needs. *Acoustic Sys.*, B-256590, June 29, 1994, 94-1 CPD P 393. The contracting agency, which is most familiar with its needs and how best to fulfill them, must make the determination as to what its minimum needs are in the first instance, and the GAO will not question that determination unless it has no reasonable basis. *Id.*; *Corbin Superior Composites, Inc.*, B-242394, Apr. 19, 1991, 91-1 CPD P 389.

Since bundled or consolidated procurements combine separate, multiple requirements into one contract, they have the potential for restricting competition by excluding firms that can only furnish a portion of the requirement. We review such solicitations to determine whether the approach is reasonably required to satisfy the agency's minimum needs. See *National Customer Eng'g*, 72 Comp. Gen. 132 (1993), 93-1 CPD P 225. Because procurements involve unique situations, contracting officers must base their decisions whether to consolidate or "bundle" certain requirements on the individual facts. Our review recognizes the uniqueness of each case.

There are several cases where the GAO upheld the agency's decision to bundle. In one case, the agency reported that two work requirements were interrelated in that they must be installed at same time and that a single general contractor was needed to coordinate all phases of the statement of work. The agency stated that having a single contractor install both systems would ensure that they will work together. Installing one system after the other would be inefficient, according to the agency, in terms of coordinating efforts and costs. The GAO found this to be reasonable. See also:

\* *Electro-Methods, Inc.*, B-239141.2, Nov. 5, 1990, 90-2 CPD P 363 (agency properly combined requirements for jet engine upgrade modification kits and engineering services);

\* *Southwestern Bell Tel. Co.*, B-231822, Sept. 29, 1988, 88-2 (contractor to provide a complete telecommunications system to an Air Force base to ensure military readiness);

\* *Batch-Air, Inc.* B-204574, Dec. 29, 1981, 81-2 CPD P 509, (GAO upheld the single package concept for purchase, overhaul and installation of aircraft engines plus spare engine services for design and engineering to ensure overall integration of the tasks); and

\* *LaQue Center for Corrosion Tech., Inc.*, B-245296, Dec. 23, 1991, 91-2 CPD P 577, (it was reasonable for the Navy to seek an integrated approach for solving marine corrosion problems.).

The GAO has also found against an agency's decision to bundle. In one case, the GSA contended that separating two requirements would increase the number of offers to be evaluated and the number of contracts to be administered, thus resulting in a significant duplication of effort. The GAO found that GSA's contention did not justify bundling the two requirements. First, GSA presented no evidence showing that any expected additional contracts would involve significant additional cost to the government. Further, the fact that bundling will be more administratively convenient is insufficient to support this inherently restrictive approach. When concerns of administrative convenience are being weighed against ensuring full and open competition, the Competition in Contracting Act (CICA), 41 U.S.C. @ 253 et seq. (1994), and its implementing regulations require that the scales be tipped in favor of ensuring full and open competition. The GAO further found that, allowing vendors to contract separately for services under the schedule would provide the user agency more choice as to how to meet its requirements--since it would not be bound to use the same vendor for sales and service--and the presence of additional vendors could result in a wider range of prices for these services. In any case, administrative convenience is not a proper basis for restricting competition, so says the GAO. See also:

\* *Allfast Fastening Sys., Inc.*, 72 Comp. Gen. 149 (1993), 93-1 CPD P 266, (GAO found that a minor rearrangement in the agency's requirements would increase the level of competition, permitting the protester to compete, and still meet the agency's minimum needs.)