



CHAPTER 7

EVALUATION FOR UNBALANCED BIDS

ODOT's Estimating Group in the Project Control Office (PCO) will perform an evaluation on each apparent low Bid for unbalanced bidding.

There are two types of unbalanced Bids—mathematical and material:

- A **mathematically** unbalanced Bid is one that contains lump sum or unit bid items that do not appear to reflect reasonable actual costs. Those reasonable actual costs would include a reasonable proportionate share of the Bidder's anticipated profit, overhead costs, and other indirect costs that the Bidder anticipates for the performance of the items in question. 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 is one that produces a reasonable doubt that Award to the low Bidder, who submitted the mathematically unbalanced Bid, would result in the lowest ultimate cost to the Agency.

There are numerous reasons why a Bidder may want to unbalance a Bid. One reason is to get more money at the beginning of the Project by overpricing the Work done early in the Project. This is called "front loading" the Contract. Another reason may be to increase profits or reduce contractor

risk. This is done by overpricing bid items the Bidder believes will be used in greater quantities than estimated and underpricing items that will be used in significantly lesser quantities.

The PCO uses the following guidelines when evaluating Bids to identify materially unbalanced Bids:

- After Bid Opening, evaluate bid item prices, as submitted by the Bidders, for unreasonable deviations from the Engineer's Estimate. The Agency reserves the right to review all Bids for material unbalancing regardless of the deviation from the Engineer's Estimate.
- If bid item prices deviate more than a reasonable amount from the Engineer's Estimate, request responsible unit to re-check the bid item quantities.

Items that may contribute to material unbalancing are:

- Obvious errors in the Plans or estimates.
- Front-end loading where the Bids indicate that the Contractor will receive disproportionate payment for work done during early stages of the Project.
- Staging differences between what the POR considered versus what the Contractor determined.
- Anticipated underruns or overruns of items.
- Token Bids which indicate that the Bid(s) are disproportionately higher than the value of the work to be done under the Contract.

After evaluation, the PCO makes a recommendation to the Chief Engineer regarding the presence or absence of a materially unbalanced Bid. This recommendation and other relevant factors will be considered to determine the action to take regarding the Bids received, consistent with public interest. A Bid found to be mathematically unbalanced to some degree, but not found to be materially unbalanced may still be awarded to the low Bidder.

Although the PCO evaluates unbalanced Bids, it is important that the RE and Region promptly advise the PCO when an error or omission in the Plans or quantities is discovered, both during pre-bid reviews and during construction. The Estimating Group may also request the assistance of the RE in evaluating Bids for unbalancing.

When the Contractor's Bid proposal contains unbalanced items, the PCO will notify the RE and Region in writing so that they can administer the Contract with knowledge of the apparent unbalanced prices.

The RE should consider either redesigning or deleting portions of Work containing unbalanced bid items so as not to do the overpriced Work (See 00140.30 – Agency Required Changes to the Work).

After award, the RE office places the unbalanced bid into CPS using the recommendation of award (Cost Analysis).

At the completion of the Project, the RE will be required to identify bid items noted as having potentially unbalanced bids on the Project Manager's Narrative, as well as identifying the efforts made to manage these items. [Refer to Chapter 37 – Submittal of Final Project Documentation]

If a Project includes bid items that are significantly overpriced or underpriced, avoid changes to the Project that increase or reduce the quantities of those bid items. Consider other alternatives, wherever possible, to avoid conflict with the public policy on competitive bidding.

Refer to Standard Specification 00195.50(a-4) regarding progress payments for items with unbalanced prices.

