



U.S. Department  
of Transportation  
**Federal Highway  
Administration**

**Memo.**

**Jin**

Washington, D.C. 20590

Subject Bid Analysis and Unbalanced Bids

Date: DEC 1 1988

From: Chief, Construction and Maintenance Division  
Office of Highway Operations

Reply to  
Attn of HHO-32

To: Regional Federal Highway Administrators  
Direct Federal Program Administrator

Mr. Ronald Heinz' May 16, 1988, memorandum on bid analysis and unbalanced bidding listed several steps which should be considered in analyzing bids and possible actions to be taken.

We have attached, for your information, a copy of a memorandum showing how one Division Administrator is addressing this situation. He has taken a strong, positive stand by requesting a bid analysis from the State and, where acceptance of an unbalanced bid is recommended, support for the State's recommendation and the controls to be used to protect the public interest. He will give full consideration to the State's judgment, but he wants to be assured that this judgment is supportable.

If you are not yet fully satisfied with the bidding and award controls being exercised by States in your region, the attached example may give you some ideas on how to address the situation.

Original Signed By  
William A. Weseman  
William A. Weseman

Attachment

**ARCHIVED**



U. S. DEPARTMENT OF TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION

October 12, 1988

IN REPLY REFER TO

Bid Analysis and Unbalanced Bids

The FHWA has been placing increased emphasis on bid analysis and unbalanced bidding. At the National level, the FHWA has supported and encouraged improved methods, including computerized methods for analyzing bids to determine unbalanced bidding and bid rigging. The FHWA Division Offices have been instructed to work with the State Highway agencies to improve bid analysis and decision-making on award of contract, to more thoroughly review bid information, and to condition award concurrence or withhold concurrence where necessary to protect the Federal interest.

As you can tell by recent letters from my staff, we have been more closely reviewing bids for unbalancing. On projects in which there has been substantial differences between bid prices and the engineer's estimate, we have pointed out those bid items and have asked that they be closely monitored during construction.

We believe that the \_\_\_\_\_ should initiate a bid analysis process to evaluate bids for unbalancing. The purpose of the evaluation would be to detect situations where award of contract to an apparent low bidder would result in a financial advantage to that contractor with a corresponding financial disadvantage to the \_\_\_\_\_ and FHWA. We believe implementation of an analysis process would not only provide both \_\_\_\_\_ and FHWA tools for better protecting the public interest, but would also fit into focus on controlling overruns in project cost.

In our review of bid information involving substantial differences between the low bid unit prices, we are required to consider first, whether there is an error in the estimated quantity and if there is no

error, whether the bid is mathematically or materially unbalanced. A mathematically unbalanced bid is one containing a bid item(s) which do not reflect reasonable actual costs and a reasonable proportionate share of the bidder's profit and overhead. A materially unbalanced bid is one for which there is reasonable doubt that award to the bidder submitting the mathematically unbalanced bid will result in the lowest cost to the Government. As you will note from the enclosed excerpt from an FHWA Headquarters memorandum on the subject, unbalanced bids are a continuing concern and materially unbalanced bids require FHWA to take action to protect the Federal interest. In these instances, the Division Administrator may concur in the State's decision not to award the contract or if the State decides to award, the Division Administrator's action may range from non-concurrence to concurrence with conditions limiting Federal participation.

While we intend to carry out our responsibilities within the limits of our resources, we will be requesting information from \_\_\_\_\_ when an apparent unbalanced bid is identified. Consequently, we believe our mutual interests would be best served if \_\_\_\_\_ initiated a formal process for bid analysis and for decision-making regarding unbalanced bids.

To begin this process, we recommend \_\_\_\_\_ undertake routine comparison of the low bidder's individual bid amounts with the engineer's estimate. Where substantial differences exist, the estimated quantities should be checked. If a quantity error is confirmed, a decision should be made on whether to award or reject bids. If after examination, the estimated quantities are determined to be reasonably accurate, then the low bid should be further evaluated for unbalancing.

A detailed review of bid items can reveal where contractors may be anticipating overruns by using substantially higher bid prices for those items. Knowledge of this occurrence should alert the project manager to monitor these items to control overruns. A recent example of this in \_\_\_\_\_ is PCC slab replacements as a part of Interstate 4R projects. The detailed review will also identify bid items which were bid at token prices. Such bid items require continued project monitoring to ensure the contractor performs. We have commented several times on token prices for flagging.

The above analysis is based on the assumption that the engineer's estimate is reasonably accurate. This has been a weak element in the \_\_\_\_\_ program. FHWA has been tracking the accuracy of estimates on an annual basis since 1984. A State is considered to have a satisfactory estimating procedure if 50% of the engineer's estimates are within  $\pm 10\%$  of the low bids. For \_\_\_\_\_ the percentages have ranged from 37% to 49%.

In the interim until \_\_\_\_\_ establishes its bid analysis process, we will continue to review bid information, seeking clarification on apparent unbalanced bids, and commenting on project monitoring requirements or conditioning our concurrence action as appropriate. However, beginning with bids submitted for our concurrence or non-concurrence after January 1, 1989 we are asking the following information accompany the request:

1. Results of your bid analysis: Identify which, if any, of the bid items you believe are unbalanced. Confirm that quantities of these items have been checked and any errors identified. Identify any of these items considered to have the potential to significantly overrun or underrun. Indicate whether the unbalanced item is considered to be mathematically or materially unbalanced.
2. In cases where you propose to award a contract with an identified unbalanced item, indicate why you believe it is in the public interest to do so, and indicate what you expect to do to control the unbalanced item.

We recognize that there are many legal and administrative considerations in reaching a decision on whether a bid is to be rejected on the basis of unbalancing. We also recognize that considerable judgement is required in reaching a decision on whether a bid is mathematically or materially unbalanced. We intend to give full consideration to your judgement in these matters and your proposed actions in reaching our decisions on award concurrence.

The above mentioned excerpt includes discussion of the benefits of incorporating into contract specifications a specific clause prohibiting unbalanced bidding and encourages use of the AASHTO Guide Specifications for Highway Construction provision. The current Standard Specifications are silent on this matter except for the general provision expressing the State's right to reject any or all proposals. With the new Standard Specifications now being developed, an opportunity to include such a provision is available.

Finally for your information, more than half the States are now involved in using AASHTO's Bid Analysis and Management System (BAMS) computer software package. Two of the modules in BAMS are specifically designed for improving the engineer's estimate and performing the analysis of bids. We urge you give consideration to using it. This was the subject of a workshop on \_\_\_\_\_ which was attended by several of your staff.

Because this is a significant proposal which we expect will require several discussions to arrive at a mutual understanding, we would be pleased to meet with you and your staff to go over it. Please advise as to your availability.

Sincerely yours,

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