

Is the Bidding Process Written In Stone?

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Part I

A construction company bidding for a lucrative contract decided to present a quote lower than the actual cost of the project. Since they have no intention of losing money; they deliberately included mistakes in the construction drawings that would later require changing the contract at an additional cost to the client, thus the construction company could take the risk of bidding lower than cost and won the bid. Later they would generate extra profits because of the costly change orders required to correct deliberately inserted mistakes.

This is a common practice in the Puerto Rican construction industry. Both the developers and the construction companies are aware of it. While developers are not thrilled with it, they reluctantly accept it because they want to start construction as soon as possible.

Questions:

1. Although this practice is accepted in the industry, is the construction company right in pursuing this course of action? What are their alternatives should they find it unacceptable to conform to this practice?
2. Do an ethical evaluation of this bidding practice? How does it stand in relation to various ethical approaches such as utilitarianism, deontology, and virtue ethics?
3. Do the ethics codes in engineering say anything about competitive bidding that is relevant to this case?
4. Is there anything that developers could or should do to avoid this situation?

Part II

The practice of bidding for government contracts started in the 1930's when federal government agencies found it necessary to look for ways to reduce corruption. There are, however, alternatives to the practice described above. In Germany, for example, the contract is awarded to the firm with the quote closest to the average. Another bidding system is based on the idea of best value bidding. This process has two parts: a preliminary selection process that assesses each bidder's ability to complete the project successfully; with the contract being awarded to the lowest bidder of those found competent in the first stage.

Questions:

1. The second part of this case presents alternatives to the bidding practice described in the first part. Would either the German or the best value bidding system (or both) be better? Why or why not?
2. What are the ethical problems associated with the practice described in the first part? Do these problems exist in the German or the best value bidding systems?
3. Could you design a bidding system that finds a way around these ethical problems? If so, describe it.
4. Would you recommend a modification in the bidding system itself which may help in situations like the one presented in this case? Defend your answer.

Part III

A construction company participating in a bid decides to present a quote that is lower than the actual cost of the project. Although presumably included in this quote is the profit which the construction company expects to obtain, the decision is based on the knowledge that there are mistakes in the construction drawings and that these mistakes will eventually imply changes in the contract. Developers might find it convenient to

engage in this kind of practice whenever there are mistakes in the drawings, because at times, depending on other factors, they may want to get started as soon as possible. The practice, moreover, is accepted in the construction industry. If the construction company wins the bid, it will later be able to negotiate a higher cost for the project through change orders. The risk taken is based on the possibility of additional profits through those changes in the contract. The winner will be the lowest bidder. Hence the construction company is willing to take the risk of entering into a contract it might not be able to fulfill.

Although the practice is accepted in the industry, is the construction company right in making this decision? Discuss the two alternatives and demonstrate whether the action is ethically right or wrong.