

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

61206

FILE: B-186425

DATE: July 26, 1976

MATTER OF: American Drafting and Laminating Company

u98908 / 98908

DIGEST:

1. Use of rotating bid list, whereby not all firms equipped to perform given type printing requirement are solicited for every job that is advertised, is proper where, as in present case, there is adequate competition, reasonable prices and no showing of deliberate intent to exclude bidder.
2. Failure to synopsise procurement in Commerce Business Daily does not provide legal basis for disturbing award where there was adequate competition and there was no intent by procuring activity to exclude protester, or anyone else, from bidding. However, agency advised to comply with such requirement in future.

By telegram of April 27, 1976, as supplemented by letter dated May 26, 1976, American Drafting and Laminating Company (ADL) protested the award of a contract to another firm under the Government Printing Office's (GPO) program 2389. ADL requested that it be permitted to bid on GPO program 2389 since it was on the GPO bidders list and had recently been awarded a contract for the performance of identical work on GPO Jacket Number 637-947, but had not been solicited to submit a bid on program 2389. However, in its letter of May 26, 1976, ADL states that it does not seek "to have its bid considered after award." Accordingly, we do not believe that discussion of this issue is warranted.

Program 2389 is an annual requirements contract for the production of books and pamphlets. The contract was awarded as a result of formal advertising.

We are advised by GPO that it rotates the bidders list so that all firms equipped to perform a given type printing requirement are not solicited for every job that is advertised. Since several hundred firms on the complete list have the capability of performing this contract, it would not be economically feasible to solicit all of them.

B-186425

In considering previous protests from firms which were not solicited for a particular procurement because the bidders list was rotated, this Office has stated that where the method of solicitation provided adequate competition and reasonable prices, the failure to solicit a particular bidder does not, absent a showing of deliberate intent to exclude the bidder, afford a sufficient basis to question an award. See West Coast Timber Products, Wyatt Lumber Company, Kennedy-Johnsen Lumber, Inc., B-180872, May 21, 1974, 74-1 CPD 275; B-178967(1), November 5, 1973; 49 Comp. Gen. 707 (1970). In the present case, GPO has advised that 20 firms were solicited and responsive bids were received from 8 firms. Thus, there appears to have been adequate competition.

It is ADL's position that the "rotating bid list" procedure should not have been used for program 2389 since it (program 2389) consolidated the services required to produce several training aid books for various submarines on a short delivery schedule requirement for each set of books. According to ADL, past experience indicates that it will be impossible for two or three of the lower bidders to meet the delivery schedule, and, therefore, the Government will have to pay extremely high premiums.

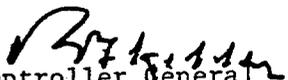
The program permits the low accepted bidder to refuse the job if he cannot meet the delivery schedule, and the Government can go to the next low accepted bidder for the services required for that particular training aid book. The process is continued until award is accepted unless the price is deemed to be too high, in which event the award will not be made on that particular portion of the contract. Since no award will be made if the price is considered to be too high, we do not believe that "extremely high premiums" will be paid.

We were informally advised by GPO that this procurement was not synopsisized in the Commerce Business Daily in accordance with 15 U.S.C. § 637(e). Since there is no indication of an intent to exclude ADL or anyone else from bidding, and since adequate competition was generated, the failure to synopsisize the procurement does not provide a legal basis for disturbing the award. See Coastal Services, Inc., B-182858, April 22, 1975, 75-1 CPD 250 and B-168753, March 25, 1970. However, we are recommending that future procurements strictly adhere to the 15 U.S.C. § 637(e) synopsis requirement.

B-186425

For the above reasons, ADL's protest is denied.

Deputy


Comptroller General
of the United States