

DECISION



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

9748

FILE: B-193979

DATE: April 11, 1979

MATTER OF: North Alabama Reporting Service

DLG 00008

~~[Protest of Not Being Placed on Bidders List by GSA]~~

DIGEST:

[Protest of Contract Award by GSA for Court Reporting Service]

Where adequate competition and reasonable prices are obtained, inadvertent omission of bidder from bidders list is not basis to recommend bids be resolicited.

North Alabama Reporting Service (NARS) protests the award of any contract for court reporting services for the Huntsville and Birmingham, Alabama, and Nashville, Tennessee, areas as the result of invitation for bids (IFB) 7PF-51779/W8/7AV issued by General Services Administration (GSA), Region 7. NARS states that although it took appropriate action to be placed on the GSA bidders mailing list, GSA failed to send NARS a copy of the IFB, thus denying NARS an opportunity to submit a bid. For the reasons set forth below, the protest is denied.

In May 1978, NARS contacted GSA and obtained the necessary forms to be placed on the GSA bidders mailing list. Several weeks after filing the forms in mid-June, NARS contacted GSA and was advised that its application was on file and NARS should be receiving some response in the very near future. Thereafter, having heard nothing further and understanding that the new contract year for GSA for court reporting services started on March 1, 1979, NARS in July or August 1978 again contacted GSA on several occasions but failed to obtain any further information. NARS did not contact GSA again until January 10, 1979, when it was advised that the IFB had been issued and the closing date for receipt of bids had passed. On January 16, 1979, NARS contacted the GSA contracting office in Fort Worth and was informed that NARS could not be considered for any award as no bid had been submitted. NARS filed its protest with this Office on January 22, 1979.

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The GSA report filed in connection with the protest claims that the omission of NARS from the bidders mailing list was inadvertent and that action was being taken to insure that NARS receives future solicitations. The report also points out that the procurement was synopsized in the Commerce Business Daily (CBD) on October 18, 1978, although NARS denies knowledge of it. The synopsis gave the proposed contract period, the IFB number, the address of the contracting office, and the date set for opening bids (November 29, 1978).

It has consistently been our position that unless there is evidence of a conscious and deliberate effort to exclude a bidder from participating in the competition, we will not require that bids be resolicited provided a significant effort to obtain competition was made and award will be made at a reasonable price. Acqua-Trol Corporation, B-191648, July 14, 1978, 78-2 CPD 41. In this respect, we have concluded that a "significant effort" was made even when only one bid was received, where six prospective contractors were solicited. Wichita Beverage, Inc., B-191205, July 6, 1978, 78-2 CPD 11. In Wichita, the protester was an incumbent contractor and as in this case, had requested that it be included on the bidders mailing list for future requirements but did not receive the invitation.

Thus we have stated:

* * * "[t]he propriety of a particular procurement must be determined from the Government's point of view upon the basis of whether adequate competition and reasonable prices were obtained, not upon whether every possible prospective bidder was afforded an opportunity to bid. B-147515, January 12, 1962. While it is unfortunate that your address was not correctly recorded on the bidders list, we do not find anything in the record to indicate that the error was other than an inadvertent mistake, or that it was occasioned by any deliberate attempt on the part of the procuring personnel to

exclude you from participating in the procurement. In such circumstances, although we recognize the resulting hardship which may be experienced by your firm, it has been our consistent position that the nonreceipt or delay in receiving bidding documents by a prospective bidder does not require cancellation or amendment of the invitation. 34 Comp. Gen. 684 (1955)." 52 Comp. Gen. 281, 283 (1972).

The record fails to disclose any deliberate intent by GSA to prevent NARS from bidding on this procurement. GSA also advises that 188 firms were solicited and that 8 bids were received to provide the services for the Birmingham area, 6 for Huntsville and 8 for Nashville; that in its view adequate competition was obtained, and that the prices were reasonable. There is no implication in the protest that there was inadequate competition or that GSA will award the contract at an unreasonable price. Thus, while it is unfortunate that NARS did not have the opportunity to submit a bid, there is no basis for this Office to recommend that GSA not proceed to contract award on the original solicitation.

The protest is denied.


Deputy Comptroller General
of the United States