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DECISION

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

FILE: B-195830 **DATE:** February 8, 1980
MATTER OF: Security Assistance Forces and
Equipment OHG

DIGEST:

Contracting officer's decision not to solicit particular firm for purchase under \$10,000 is consistent with regulations for negotiated small purchases which give contracting officer broad discretion in determining how to meet Government's needs, and require only "reasonable," rather than maximum, competition.

DLG03884

The United States Army Procurement Agency, Europe, Grafenwoehr Purchasing Office, issued request for quotations (RFQ) No. DAJAL6-79-Q-0061, on May 31, 1979, to three small business concerns for the procurement of 102 smoke detectors to be installed in family quarters. The RFQ was issued pursuant to 10 U.S.C. § 2304(a)(3) (1976), which permits procurement by negotiation rather than formal advertising where the aggregate amount of the purchase would not exceed \$10,000. Security Assistance Forces and Equipment OHG (SAFE) protests the fact that it did not receive an RFQ and that award thereunder was made to another firm. For the reasons stated below, the protest is denied.

DLG01388

The RFQ was sent to three suppliers, all of which were no further than 30 minutes by road from Grafenwoehr where the purchasing office is located. An RFQ was not sent to SAFE which is located in Frankfurt, about 3-1/2 hours by road from the purchasing office. All three firms solicited gave quotations and award in the amount of \$5,645.16 was made to the lowest offeror on June 26, 1979. Delivery and installation of the smoke detectors have been completed.

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SAFE's protest was timely filed once it became aware of the solicitation and award to another firm. The protest is based on SAFE's exclusion from furnishing an offer as it did not receive an RFQ. Specifically, SAFE contends that it has successfully completed two contracts for the supply and installation of the same type of equipment in the past; that it is listed with the procurement agency as a supplier of this product and service; and that a record of a phone conversation with the contracting officer shows that he promised to send SAFE all solicitations for smoke detectors.

The purchasing agent in the Grafenwoehr office processed the Purchase Request (PR). He states that a note, written by the contracting officer (who executed the purchase order), was attached to the PR which advised him to find three sources other than SAFE. The note offered no explanation for not soliciting SAFE. However, the record shows that SAFE had previously received two purchase orders for smoke detectors from the Grafenwoehr office.

The contracting officer states that the exclusion of SAFE was not the result of bad faith, but of his attempt to comply with Defense Acquisition Regulation (DAR) § 3-604.2, which provides that "Generally, solicitation shall be limited to three suppliers and, to the maximum extent possible, shall be restricted to the local trade area of either the purchasing or the receiving activity." Also, the contracting officer denies promising SAFE that he would send it all solicitations for smoke detectors.

The only evidence as to whether the contracting officer promised that he would send SAFE all solicitations for smoke detectors is conflicting statements from SAFE and the contracting officer. SAFE has the burden to affirmatively prove its case, Reliable Maintenance Service, Inc., -- request for reconsideration, B-185103, May 24, 1976, 76-1 CPD 337, and we cannot say that SAFE has met its burden in this regard.

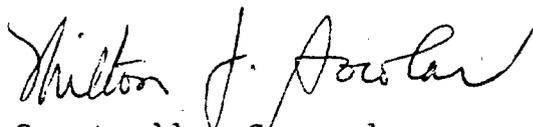
In any event, a contracting officer is given broad discretion with respect to small purchases. Small purchase procedures are used to minimize administrative costs which might otherwise be the equivalent of or exceed the cost of acquiring relatively inexpensive items. In these cases it is sufficient that the contracting officer make a good faith determination that the proposed award is to the best advantage of the Government, considering price and other factors. In order to make such a determination, the contracting office is required to solicit quotations from a reasonable number of potential sources. Tagg Associates, B-191677, July 27, 1978, 78-2 CPD 76.

Here there is no evidence that the contracting officer's action was taken in other than good faith. The Grafenwoehr office had already awarded two previous contracts to SAFE. The contracting officer exercised his discretion under the small purchase procedures to solicit quotations from three suppliers in the local area. There is no question that a reasonable effort was made to obtain adequate competition in accordance with DAR § 3-604.2(a) by the solicitation of three suppliers. See Ikard Manufacturing Company, B-192578, February 5, 1979, 79-1 CPD 80.

SAFE contends that under DAR § 3-604.2(a), which provides that "If practicable, two sources not included in the previous solicitation should be requested to furnish quotations," it is only logical that the lowest offeror from previous solicitations must be solicited again. The regulations, however, do not make such a stipulation. Presumably, SAFE is contending that it would have submitted the lowest offer. This is irrelevant in light of the fact that we have recognized that the Government need not award the small purchase to the firm offering the lowest quotation. JCL Services, Inc., B-182994, June 16, 1975, 75-1 CPD 364. The regulations imply that the contracting officer may judge the advantages and disadvantages of particular products, as related to price, and as stated above, the small purchase procedures give the contracting officer broad discretion to determine how the needs of the Government can best be met.

In conclusion, we do not believe that the circumstances support a finding that the contracting officer's actions were improper.

Accordingly, the protest is denied.

A handwritten signature in cursive script, reading "Milton J. Fowler". The signature is written in dark ink and is positioned above the typed name.

For the Comptroller General
of the United States