

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

27267

FILE: B-212757**DATE:** January 23, 1984**MATTER OF:** Maintenance Pace Setters, Inc.**DIGEST:**

Resolicitation of procurement is not recommended since there is no evidence of conscious or deliberate attempt to preclude protester from competing and adequate competition and reasonable prices were obtained.

Maintenance Pace Setters, Inc. (Maintenance), protests that invitation for bids (IFB) No. DACW72-83-B-0003, issued by the United States Army, Humphreys Engineer Center Support Activity for custodial services, should be rebid because it received the last amendment of the IFB too late to submit a bid.

We deny the protest.

Amendment P0004 changed the performance period from July 5, 1983 through July 4, 1984, to August 1, 1983 through July 31, 1984. However, the amendment mistakenly extended the bid opening date to August 27, 1983, which was 27 days after contract performance was to begin. According to the contracting officer, this was a typographical error and the bid opening date should have been July 27, 1983. When this mistake was discovered, amendment P0005, the last amendment, was issued correcting the typographical error (changing the August 27 date to July 27) and then extending the bid opening date to August 4, 1983. Also, the performance period was changed to read August 15, 1983 through August 14, 1984. Maintenance states that it did not receive the last amendment until August 4, 1983, when it was impossible to submit a bid.

We have held that the bidder bears the risk of nonreceipt of a solicitation amendment and the contracting agency discharges its legal responsibility when it issues and dispatches an amendment in sufficient time to permit bidders to consider the amendment in preparing their bids, notwithstanding the chance delay in delivery of the amendment to a particular bidder. A-1 Jersey Mayflower,

027655

B-210258, April 15, 1983, 83-1 CPD 417. In the present case, it appears that bidders had sufficient time after receipt of the amendment to respond to the amendment since a number of bidders timely acknowledged all the amendments of the IFB. Therefore, the fact that Maintenance may not have received the amendment in time to submit a bid is not relevant unless the delay resulted from a conscious or deliberate effort by contracting officials to exclude Maintenance from competition. CompuServe, B-192905, January 30, 1979, 79-1 CPD 63. There is no evidence of record to indicate that the delay was the result of such an effort by the contracting officials involved.

Further, the 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. E&I, Inc., B-195445, October 29, 1979, 79-2 CPD 305. On the basis of the present record, it appears that adequate competition and reasonable prices were obtained.

Therefore, we find no basis to recommend resolicitation of the procurement.

for 
Comptroller General
of the United States