

DECISION

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

FILE: B-213924 **DATE:** April 2, 1984
MATTER OF: Capital Engineering & Mfg. Co.

DIGEST:

Where protester was not included on Bidders Mailing List and contracting officer refused to extend bid opening date to enable that firm to submit a bid, bids need not be resolicited since there was a significant effort to obtain competition, bid prices were reasonable, and there was no deliberate attempt to preclude protester from bidding.

Capital Engineering & Mfg. Co. (Capital) protests any award under invitation for bids (IFB) No. DAAE07-84-B-A017 issued by the Department of the Army for 22 armor shield kits. Capital was not included on the Bidders Mailing List (BML) and argues that the list was not properly compiled. Also, Capital contends that its request for an extension of the bid opening date should not have been rejected.

We deny the protest.

Our Office has repeatedly held that the propriety of a federal procurement does not depend upon whether a particular firm has been given an opportunity to bid, but upon whether the agency obtained adequate competition and reasonable prices. UPCO Lock and Safe Service, B-213107, October 4, 1983, 83-2 CPD 425. The bidder bears the risk of nonreceipt or delay in the receipt of a solicitation and, in the absence of substantive proof that the agency deliberately attempted to exclude a bidder, our Office will not disturb a procurement where adequate competition and reasonable prices were obtained. Argus Manufacturing Corp., B-208922, October 28, 1982, 82-2 CPD 389. This rule applies to a bidder's omission from the BML as well as to the denial of a bidder's request for an extension of the bid opening date.

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Here, the Army indicates that the BML was generated in accordance with standard operating procedures. The Army determined the commodity code for the items encompassed by the IFB and firms that had checked that particular commodity code on their BML applications were sent copies of the IFB. Capital did not express an interest in its BML application for supplying the items included in this IFB and, consequently, the firm was not included on the list. While Capital argues that the BML application should include the federal supply numbers for the items under a certain commodity code, we find the application to be sufficiently detailed to enable a supplier to intelligently indicate its area of interest.


Furthermore, we see no basis to object to the method employed by the Army in compiling the BML. Although Capital disagrees with the manner in which the Army compiled the list and urges that the Army should be required to take a more active role in identifying those firms capable of manufacturing the required items, the Army is under no obligation to insure that every potential supplier for a particular item be included on the BML. Rather, the purpose of the BML is to insure for the government access to adequate sources of supply and services. See Defense Acquisition Regulation § 2.205.1(a) (Defense Procurement Circular No. 76-7, April 29, 1977).

In addition to identifying potential bidders through the use of the BML, we note that the Army synopsisized this procurement in the Commerce Business Daily and also publicly posted notice of the solicitation in the bid opening lobby. In response to requests from potential bidders, including Capital, the Army issued 52 additional copies of the solicitation. However, Capital apparently did not receive its copy in sufficient time to prepare a bid and orally requested an extension of the bid opening date. Since only 2 business days remained before the scheduled bid opening, the Army determined that insufficient time existed to process an amendment and notify potential bidders of a change in the bid opening date. As a result, Capital's request for an extension was denied.

All together, 67 solicitations were sent to potential bidders. At bid opening, the Army received six bids and the contracting officer indicates that the bid prices received were consistent with previous procurements. While it is unfortunate that Capital did not receive the IFB in sufficient time to submit a bid, there is no evidence

showing a deliberate attempt by the Army to prevent the firm from competing. In view of the number of bids submitted and the bid prices received, we cannot say that there was inadequate competition or that unreasonable bid prices were obtained. Allstate Flooring Company, Inc., B-209158, November 19, 1982, 82-2 CPD 461. We therefore have no legal basis to disturb the procurement.

The protest is denied.

for 
Comptroller General
of the United States