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**DECISION**



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

**FILE:** B-217305

**DATE:** January 4, 1985

**MATTER OF:** General Atronics Corporation

**DIGEST:**

Nonreceipt of amendment to invitation for bid and consequent failure to submit a bid is not a viable ground for protest, absent a showing of a deliberate agency attempt to preclude protester from bidding, as long as adequate competition and reasonable prices were obtained.

General Atronics Corporation protests that it failed to receive an amendment to invitation for bids (IFB) No. DTFA-02-84-B-00768 issued by the Federal Aviation Administration (FAA) and was thus precluded from bidding on that procurement.

We summarily deny the protest.

After receiving the IFB, the protester requested further technical data from the FAA. Apparently, the requested information was contained in an amendment to the IFB, but as of the bid opening date of November 27, 1984, the protester had not received the subject amendment. The protester learned that the amendment had been mailed out on November 5, 1984, and that the bid opening date had not been changed. The protester states that, since the information contained in the original IFB was inadequate and since it did not receive the amendment, it was precluded from bidding on the contract.

Our Office has been informally advised by the FAA that all bidders on the agency's solicitation list, including the protester, were mailed a copy of the subject amendment on November 5, 1984; that all four of the bids which the FAA received acknowledged receipt of the amendment; and that those bids contained reasonable prices.

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The contracting agency is not an insurer of delivery of bid documents to prospective bidders, and the risk of non-receipt is on the bidders. Marino Construction Company, Inc., 61 Comp. Gen. 269 (1982), 82-1 CPD ¶ 167. The 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 a chance delay or non-delivery of the amendment to a particular bidder. Maintenance Pace Setters, Inc., B-212757, Jan. 23, 1984, 84-1 CPD ¶ 98.

Here, FAA records indicate that it mailed the amendment to all of the prospective bidders on its bidder list who had been sent the IFB, and this has been held sufficient to avoid charges of inadequate distribution, Mar-Mac Precision Corp., B-214604, Aug. 13, 1984, 84-2 CPD ¶ 164, as long intentional exclusion of a bidder is not shown. C&M Machine Products, Inc.--Reconsideration, B-212830.2, Dec. 6, 1983, 83-2 CPD ¶ 651. There is nothing in the record to show even an inadvertent mistake on the part of the agency, much less a deliberate attempt to preclude the protester from participating in this procurement. Furthermore, it appears that prospective bidders had sufficient time after receipt of the subject amendment to consider it, as a number of timely, properly-acknowledged bids were received. See Maintenance Pace Setters, Inc., *supra*.

The propriety of a particular procurement must be determined on the basis of whether adequate competition and reasonable prices were obtained, not on whether every possible prospective bidder was afforded the opportunity to bid, *i.e.*, not on whether a particular prospective bidder, in fact, failed to receive an amendment in sufficient time to consider it in preparing its bid. Swintec Corp., Canon U.S.A., Inc., Olympia U.S.A., Inc., Guernsey Office Products, B-212395.2, B-212395.3, B-212395.4, B-212395.5, Apr. 24, 1984, 84-1 CPD ¶ 466. It appears that adequate competition and reasonable prices were obtained in this procurement.

The protest is denied.

*Milton J. Fowler*  
for Comptroller General  
of the United States