

Lieberman
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DECISION



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

FILE: B-216547

DATE: January 16, 1985

MATTER OF: Link Telecommunications, Inc.

DIGEST:

Even though protester did not receive a copy of the solicitation until the day of bid opening and after the time set for bid opening, there is no basis for sustaining a protest when there is no evidence that the protester was deliberately excluded from bidding or that adequate competition resulting in reasonable prices was not obtained.

Link Telecommunications, Inc. (Link), protests the award of a contract for the design and installation of a cable network at the Anniston Army Depot to Kee, Inc., under invitation for bids (IFB) No. DAAG02-84-B-0128 issued by the Army. We find the protest without merit.

The IFB was issued on August 23, 1984, with bid opening scheduled for September 12, 1984. The Army had mailed a copy of the proposed solicitation for publication in the Commerce Business Daily (CBD) on August 2, 1984. The notice appeared in the August 31 issue of the CBD. Bid opening was later extended until 10 a.m. on September 21, by an amendment issued on September 11, which was necessitated by a change in the scope of the requirements.

Link states that it received the August 31 CBD on September 4. By letter dated September 6, received by the Army on September 10, Link requested a copy of the solicitation. The Army states that an original mailing of the IFB was sent to 15 contractors on August 23. Copies of the solicitation were mailed to five additional requesters on September 5 and 6. This mailing exhausted the available copies of the IFB, including certain requisite drawings. When the Army learned that bid opening had been extended on September 10, it sought to obtain additional copies of the drawings. It obtained these drawings on September 14 and mailed a copy of the complete IFB package to Link on September 17. Link states that it did not receive the IFB until the afternoon of September 21, after bid opening. Link contends that this resulted in it being improperly excluded from competing.

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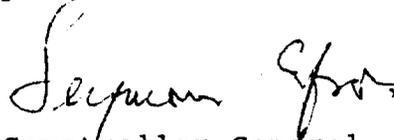
The Army states that all of its actions were in accordance with the applicable sections of the Federal Acquisition Regulation (FAR). In particular, it points out that it met the requirement contained in FAR, § 14.203-1, 48 Fed. Reg. 42,102 (1983) (to be codified at 48 C.F.R. § 14.203-1), of mailing IFB's to sufficient prospective bidders to ensure adequate competition by its initial mailing of 15 copies of the IFB to firms on the bidders mailing list. The Army also maintained five additional copies of the IFB to meet the requirement contained in the FAR, § 5.102(a), of maintaining a reasonable number of copies to supply on request. Finally, the Army states that it met its publication requirement of 15 days' notice in the CBD prior to issuance of the IFB, with the contracting officer being permitted to presume that notice has been published 5 days following transmittal of the synopsis to CBD. DOD FAR Supplement § 5.203. In response to the IFB, the Army received three bids, and award was made to Kee, Inc., the low responsive, responsible bidder, on September 25, 1984.

Link concedes that the Army appears to have acted in accordance with the FAR requirements in its issuance of the notice of the procurement and its mailing of copies of the IFB. However, Link contends that the net result of the Army's conduct of the procurement was to unfairly eliminate Link from being able to compete for award. In this regard, our Office has held that the propriety of a particular procurement must be determined from the government's point of view, considering whether adequate competition and reasonable prices were obtained--not whether every possible prospective bidder was offered an opportunity to bid. Mar-Mac Precision Corporation, B-214604, Aug. 13, 1984, 84-2 C.P.D. ¶ 164.

Our Office has upheld the awards, such as here, if there was a significant effort to obtain competition, there was no deliberate attempt to exclude the protester from competing, and a reasonable price was obtained. Hartridge Equipment Corporation, B-209061, Mar. 1, 1983, 83-1 C.P.D. ¶ 207. Link does not allege that there was any deliberate effort to exclude it from bidding, and it does not question the reasonableness of the contract price. We note that the Army's mailing of a solicitation to Link on September 17 satisfied the requirement that a small business, upon its request, shall be provided with a copy of bid sets and specifications concerning a particular contract. See Lavelle Aircraft Company--Reconsideration, B-211479.3, Nov. 15, 1983, 83-2 C.P.D. ¶ 560, and FAR § 19.202-4(d).

In light of the Army's comprehensive mailing to prospective bidders on the agency mailing list and the receipt of three bids, we do not find that the distribution process was defective, or that the procurement lacked adequate competition.

Accordingly, we deny the protest.



For the Comptroller General
of the United States