

DECISION

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

FILE: B-220879

DATE: November 15, 1985

MATTER OF: Delphi Mechanical, Inc.

DIGEST:

1. A bidder's failure to furnish with its bid a list of affiliates is a minor informality which may be waived or cured after bid opening. Regardless of solicitation provision to the contrary, the information does not affect bid responsiveness.
2. Although the Federal Acquisition Regulation requires the contracting officer to notify unsuccessful bidders "promptly" of award, it does not specify a particular time. When a protest is without merit, the agency's alleged failure to notify the protester in time so that it can take advantage of statutory "stay" provisions does not prejudice the protester.

Delphi Mechanical, Inc., the second-low bidder, protests an award to Calcedo Construction Corporation under invitation for bids (IFB) No. 8412-AE, issued July 25, 1985 by the Veterans Administration Medical Center in New York City.

We dismiss the protest.

Delphi argues first that the VA should have rejected Calcedo's low bid for an addition and alterations to an outpatient clinic because, contrary to the IFB instructions, Calcedo failed to include as part of its bid an affidavit concerning its business affiliates. In addition, Delphi complains that the VA did not inform it of the award to Calcedo in time to permit Delphi to protest the decision within 10 days of the award. Under the Competition in Contracting Act of 1984 (CICA), 31 U.S.C.A. § 3553(d)(1) (West Supp. 1985), an agency is required to suspend

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performance pending resolution of the protest only when it receives notice of the protest within 10 days of the date of contract award.

The solicitation in this case required bidders either to indicate that they had no affiliates or to provide the names and addresses of such affiliates, in accord with Federal Acquisition Regulation (FAR), §§ 14.201-6(k) and 52.214-17 (FAC 84-5, Apr. 1, 1985), which state that the contracting officer may require such information when he determines that disclosure is necessary to prevent practices prejudicial to full and open competition, such as improper multiple bidding. However, a bidder's failure to furnish such a list of affiliates is a minor informality that may be waived or cured after bid opening. FAR § 14.405(e); Rut's Delivery Service, B-217286, Apr. 26, 1985, 85-1 CPD ¶ 474. Therefore, Calcedo's bid was responsive, and its statement that it had no affiliates, submitted after bid opening, was acceptable in connection with the VA's responsibility determination. See Marathon Enterprises, Inc., B-213646, Dec. 14, 1983, 83-2 CPD ¶ 690.

With regard to Delphi's protest that the VA should have notified Delphi sooner of the award to Calcedo, so that it could take advantage of the CICA stay provisions, although the FAR requires the contracting officer to notify unsuccessful bidders "promptly," it does not state a particular time. FAR § 14-408.1(a). Any delay that might have occurred here did not in fact prejudice the protester, since its allegations regarding the low bidder are without merit.

The protest is dismissed.


Ronald Berger
Deputy Associate
General Counsel