



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Braceland Brothers, Inc.

File: B-228312

Date: December 10, 1987

DIGEST

1. The propriety of a particular procurement rests upon whether adequate competition and reasonable prices were obtained by the government and not upon whether a particular bidder was given an opportunity to bid.

2. Where an agency publishes notice of a procurement in the Commerce Business Daily, mails the solicitation to 40 prospective bidders on a randomly selected computerized bidders list and also mails the solicitation to bidders from a previous solicitation, the agency has satisfied the requirement for full and open competition.

DECISION

Braceland Brothers, Inc., protests the award of a contract under an invitation for bids (IFB) for Program No. 2986-M for the printing of Air Force Technical Orders issued by the Government Printing Office (GPO). Braceland complains that it did not receive a copy of the IFB until the date of bid opening which prevented it from submitting a timely bid. Braceland requests that the requirement be resolicited so that it will have an opportunity to bid. We deny the protest.

The GPO issued the original IFB for Program No. 2986-M on April 21, 1987, to 45 printing firms randomly selected from GPO's computerized rotating bidders list. Bid opening was held on May 11, and on June 4 award was made to several firms, including Braceland. However, the GPO and the Air Force subsequently determined that the print orders placed by the Air Force did not fit the specifications of the contract. In order for the specifications to be revised, Program No. 2986-M was terminated for the convenience of the government, although it is not clear from the record when notice of termination of the original contract awards was issued or received by the contractors.

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On July 24, the GPO issued a new IFB for Program No. 2986-M with revised specifications and mailed them to another 40 contractors randomly selected from GPO's computerized rotating bidders list. A different bidders list was used because of the difference in scope of work between the original IFB and the new IFB. Bid opening under the new IFB was scheduled for August 11. GPO also published a synopsis of the procurement in the Commerce Business Daily (CBD). On July 31, the GPO decided to mail the revised IFB to the firms who had bid on the original IFB and Braceland was mailed a copy on that date. According to Braceland, it contacted GPO on August 10 and requested a copy of the new IFB. Braceland contends that it did not receive the IFB by mail until shortly before the actual time of bid opening on August 11 which made it impossible to file a timely bid or a request to delay bid opening prior to the scheduled opening.

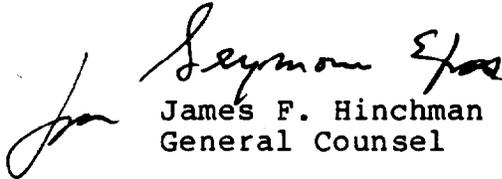
Braceland does not contest the propriety or the necessity of the termination of the original contract award. It does maintain, however, that the lack of notice of the termination before the bid opening date scheduled under the revised IFB prevented it from submitting a bid since it was unaware of the new IFB until shortly before the bid opening. However, the question of whether proper termination procedures were followed is a matter of contract administration which is not for consideration by our Office under our Bid Protest Regulations. 4 C.F.R. § 21.3 (f)(1) (1987). Hero, Inc., B-221820, May 12, 1986, 86-1 C.P.D. ¶ 450.

While this lack of actual notice of the termination probably contributed to Braceland's lack of awareness of the new solicitation until shortly before bid opening, the propriety of a particular procurement rests upon whether adequate competition and reasonable prices were obtained by the government and not upon whether a particular bidder was given an opportunity to bid. Western Pioneer, Inc., d.b.a. Delta Western, B-220608, Jan. 30, 1986, 86-1 C.P.D. ¶ 109. An agency has satisfied the Competition in Contracting Act of 1984 requirement for full and open competition when it makes a diligent good-faith effort to comply with the statutory and regulatory requirements regarding notice of the procurement and distribution of solicitation materials and it obtains a reasonable price. NRC Data Systems, 65 Comp. Gen. 735 (1986), 86-2 C.P.D. ¶ 84.

On the issue of whether adequate competition was sought, we note that the agency published notice of the procurement in the CBD (which has the effect of placing all prospective bidders on constructive notice of the procurement) and that it mailed the solicitation to 40 prospective bidders and the bidders from the first procurement, including Braceland. We consider these actions to constitute a significant effort to

obtain competition. As a result of these efforts, the agency received eight bids and awards were made after determination that prices were fair and reasonable. The fact that Braceland did not receive the revised solicitation until just before bid opening does not affect the validity of the awards. The bidder bears the risk of nonreceipt or delay in receipt of solicitations and amendments in the absence of substantive proof that the agency deliberately attempted to exclude a bidder from participating in the procurement. Maryland Computer Services, Inc., B-216990, Feb. 12, 1985, 85-1 C.P.D. ¶ 187. Braceland does not suggest that GPO deliberately attempted to exclude it from the competition, and the record clearly does not support such a finding. We, therefore, find no basis to question the awards made under the solicitation.

The protest is denied.


James F. Hinchman
General Counsel