



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: DRM & Associates, Inc.

File: B-240134.5

Date: November 28, 1990

D.R. Madden for the protester.
Elizabeth M. Jarrell, Esq., Department of Justice, Immigration and Naturalization Service, for the agency.
Barbara C. Coles, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging award under invitation for bids based on protester's allegation of bias in award selection process is denied where there is no evidence of bias in the record and the award was properly made to the low bidder as required under sealed bidding procedures.
2. Protest challenging award decision based on protester's complaint that agency informed awardee of award 8 days prior to notifying the unsuccessful bidders is denied because while agencies are required to provide notice of contract awards, the delay in notifying the protester was merely a procedural defect which does not affect the validity of the contract award.

DECISION

DRM & Associates, Inc. protests the award of a contract to MVM Inc. under invitation for bids (IFB) No. CO-12-90, issued by the Department of Justice, Immigration and Naturalization Service (INS) for security guard services at St. Elizabeth's Hospital Relief Building, Washington, D.C. DRM, the incumbent contractor, contends that the agency's decision to make award to MVM, the low responsive bidder, was based in part on the agency's bias in favor of the awardee and against DRM.

We deny the protest.

INS issued the IFB on June 4, 1990, with bid opening scheduled for July 6. The IFB, as amended, called for unit prices for a basic performance period of 1 year and four 1-year option periods. The IFB provided that bids would be evaluated, for

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award purposes, by adding the total price for all the options to the total price for the basic requirement. The IFB also informed bidders that award would be made to the responsive, responsible bidder offering the lowest total price.

Four bidders responded to the solicitation. The agency determined that only three bidders, including DRM and MVM, submitted responsive bids. Since MVM's bid prices were lower than DRM's, the agency awarded the contract to MVM and informed MVM, on September 5, that it had received the award. On September 12, the contracting officer sent a written notice of award to all the unsuccessful bidders, including DRM. DRM's protest to our Office followed.

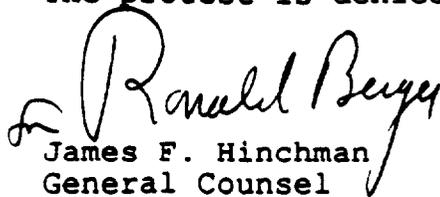
DRM contends that the agency was biased in favor of MVM and against DRM. To support its allegation, DRM asserts that INS granted MVM preferential treatment with respect to the notification of award, specifically, that it notified MVM of the award 8 days prior to notifying the unsuccessful bidders. DRM also states that the agency permitted MVM entry into the secure facilities at St. Elizabeth's to interview DRM's employees for positions created by the contract and, as a result, MVM trained several of DRM's employees prior to the actual award.

We see no evidence that the award was the result of bias in favor of MVM and against DRM. On the contrary, award under the solicitation, which was an IFB, was to be made based on price and price-related factors only, and MVM submitted the lowest price. With regard to DRM's specific assertions, the contracting officer denies that she allowed MVM on St. Elizabeth's premises to interview DRM's employees; however, even assuming that this action took place, we see no reason to object to an apparent awardee's attempt to fill contract positions while it is awaiting the agency's responsibility determination and the resulting award.

To the extent that DRM complains that the unsuccessful bidders were not notified of the award in a timely fashion, this by itself does not demonstrate bias against DRM. Moreover, the agency's failure to notify DRM of the award contemporaneously with its notification to MVM does not render the award decision improper; while contracting agencies are required to provide prompt notice of contract awards, we generally view delay in notifying unsuccessful bidders as a

procedural defect that does not affect the validity of the award. Syllor, Inc. and Ease Chemical, B-234723; B-234724, June 6, 1989, 89-1 CPD ¶ 530.

The protest is denied.


James F. Hinchman
General Counsel