



Comptroller General
of the United States

Washington, D.C. 20548

149527

Decision

Matter of: Quick! The Printer

File: B-252646

Date: July 20, 1993

Thomas C. Wheeler, Esq., and Vincent S. Antonacci, Esq., Pettit & Martin, for the protester.
Drew Spalding, Esq., United States Government Printing Office, for the agency.
John Van Schaik, Esq., and Roger H. Ayer, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest alleging that Government Printing Office (GPO) improperly failed to solicit protester is denied where GPO had never procured the services before, was not previously responsible for maintaining the mailing list of potential bidders, and reasonably relied on the mailing list of the agency which previously procured the services.

DECISION

Quick! The Printer protests the failure of the Government Printing Office (GPO) to solicit Quick, a small business, under an invitation for bids (IFB) for Program No. 4505-S, for the duplicating and copying requirements of the Milwaukee Eastern Region Office of the Forest Service. The IFB is for a 12-month term requirements contract for short-run, fast-schedule, duplicating and copying.

We deny the protest.

Prior to this IFB, work of a similar nature was procured directly by the Forest Service, most recently under a contract with Quick. The first option year of that contract was to end on September 30, 1992. In a letter dated September 25, 1992, the Forest Service informed Quick that it would not exercise the second option of the contract but instead would extend the contract for 2 months from October 1 until November 30. That letter explained that GPO would issue the solicitation for the next duplicating contract and that Quick would be included on the bidders

list.¹ In a letter dated November 24, 1992, the Forest Service again extended Quick's contract for 2 months, from December 1 until January 31, 1993. Both letters were addressed to Quick at its current address which is 2025 North Summit Avenue, Milwaukee, Wisconsin 53203.

In early January 1993, the Forest Service sent the GPO contracting office a list of recommended sources for the new contract. That list included Quick, but used its prior address instead of its current address.² The list identified Quick as the "Incumbent Contractor." On February 5, GPO mailed the IFB to 20 potential vendors, including Quick at its incorrect prior address. Two responsive bids were submitted--Econoprint of Milwaukee bid \$19,406.77, and The Ink Spot bid \$48,791.95. GPO awarded the contract to Econoprint on March 3. On March 10, Quick both learned of the award and that GPO, relying on the Forest Service source list, had mailed the IFB to Quick's prior address. Quick protested on March 12.

Quick states that in October 1992, at about the time its contract was extended, Quick asked the Forest Service when the new solicitation for duplicating services would be issued and was informed that it would receive the IFB and would be given a chance to bid. Quick also states that on two other occasions after October, it asked the Forest Service about the solicitation and received assurances that it would be solicited and that GPO would be requesting Quick's assistance in accumulating data to determine the agency's duplicating requirements for the new contract.

Quick contends that GPO was obliged to furnish Quick, the incumbent contractor, a copy of the solicitation. Quick cites the Competition in Contracting Act of 1984 (CICA), 41 U.S.C. § 253(a)(1) (1988), requirement that agencies obtain "full and open competition" through the use of competitive procedures and argues that CICA places a duty on contracting agencies to take positive, effective steps to ensure that all responsible sources are permitted to compete. Quick urges that, consistent with the CICA standard for full and open competition, its protest should

¹At the end of Quick's contract, GPO assumed responsibility for contracting for these services for the Forest Service. See 44 U.S.C. § 502 (1988).

²Quick had used the prior address, P.O. Box 11329, Shorewood, Wisconsin 53211, until June 1992. Quick notified the Forest Service at that time of its change of address and states that since then it has received numerous documents from the Forest Service at its new, current address.

be sustained since Quick is the incumbent contractor and it was not solicited as a result of deficiencies on the part of the contracting agency. Quick states that it repeatedly expressed a desire to compete for this contract and it was repeatedly assured that it would have an opportunity to do so. Further, Quick argues that the GPO should have correctly solicited Quick since the agency must have had documents--such as the contract extensions issued by the Forest Service--reflecting Quick's correct address, and that GPO had a duty to solicit the incumbent contractor.

Quick questions the propriety of the award, contending that since it would have submitted the low bid (allegedly, \$18,679.06) and one of the two bids received was unreasonably high (i.e., \$48,791.95), leaving only one "competitive" bid (\$19,407.77), the GPO cannot show either the existence of full and open competition required by CICA or that it selected the source with the most competitive offer. On this basis, Quick seeks the termination of the award to Econoprint and resolicitation of the requirement allowing Quick an opportunity to bid.

Under CICA and implementing regulations, Federal Acquisition Regulation (FAR) §§ 14.203-1, 14.205-1, and 15.403, contracting activities must maintain solicitation mailing lists, including those considered capable of filling agency requirements, and solicitations normally are to be sent to those on the lists. Contracting agencies generally must solicit satisfactorily performing incumbent contractors. FAR § 14.205-4(b); Davis Enters., B-249514, Dec. 4, 1992, 92-2 CPD ¶ 389; Professional Ambulance, Inc., B-248474, Sept. 1, 1992, 92-2 CPD ¶ 145. GPO contends that, as a legislative branch agency, it is not subject to the full and open competition requirement of CICA or the provisions of the FAR. 41 U.S.C. § 253(a) (1988); 44 U.S.C. § 311(a); Custom Printing Co., 67 Comp. Gen. 363 (1988), 88-1 CPD ¶ 318. GPO acknowledges that its own regulations contain essentially the same requirements with respect to soliciting incumbent contractors.

GPO's Printing Procurement Regulation, GPO Publication 305.3 (Rev. 10-90), sets forth GPO policy regarding bidder selection. In relevant part, that regulation states that GPO policy is:

- *(i) to afford all bidders the opportunity to bid by rotating the bid list.

* * * * *

- (iii) to include bidders suggested by customer agencies.

- (iv) to include previously successful bidders.
- (v) to reasonably assure that adequate competition is obtained."

Printing Procurement Regulation, GPO Publication 305.3, Chapter VI, section 1(1)(b). At chapter VI, section 2, GPO's regulation also states that "[t]he previous supplier shall be invited to bid on procurements of reprints and term contracts."

Where CICA and the FAR do not apply to procurements that are within our jurisdiction, we review agency actions to determine whether they were reasonable and consistent with any statutes and regulations that do apply. Century 21-AAIM Realty, Inc.--Recon., B-246760.2, Aug. 6, 1992, 92-2 CPD ¶ 78. As set forth above, GPO's regulations require the agency to include on its bidders list the "previous supplier." The issue presented by the protester is whether it was unreasonable and a violation of its regulations for GPO to use the list of potential bidders provided by the previous contracting organization. We believe that GPO acted reasonably.

First, Quick is not an incumbent contractor or a "previous supplier" under the GPO regulations. See United States Elevator Corp., B-241772, Mar. 5, 1991, 91-1 CPD ¶ 245. Quick's previous contract included some of the work that will be covered by the GPO contract, but that previous contract was awarded by the Forest Service. GPO was not responsible for maintaining the mailing list of potential bidders for the services it now is procuring. Also, we do not believe that GPO was obligated to attempt to contact every firm on the Forest Service's mailing list to ensure that their addresses were correctly recorded. Nor do we believe that GPO was obligated to check the contract documents in its possession to determine if the address of the incumbent on the Forest Service contract was correctly entered on the Forest Service mailing list. It reasonably relied on the Forest Service to provide an accurate list.

Second, while it is unfortunate that Quick was not solicited as a result of the erroneous address on the mailing list, Quick itself omitted reasonable steps that would have helped to ensure that it would receive the IFB. We will not sustain a protest of an agency's inadvertent failure to provide a prospective bidder with bid documents where the firm did not avail itself of every reasonable opportunity to obtain those documents. Fort Myer Constr. Corp., B-239611, Sept. 12, 1990, 90-2 CPD ¶ 200. The Forest Service reported to Quick in a September 25 letter that the GPO would issue the new solicitation. Although Quick communicated with the Forest Service concerning the new IFB, Quick did not contact

GPO until well after its previous contract had ended, Quick's contract, including the extensions, ended on January 31 and, although at that time Quick still had not received the IFB, Quick did not communicate with GPO until March 10, more than 5 weeks later. We conclude that Quick did not make all reasonable efforts to assure that it would receive the IFB.

Accordingly, GPO's failure to provide a copy of the IFB to Quick provides no basis to sustain the protest. Fort Myer Constr. Corp., supra.

The protest is denied.


for James F. Hinchman
General Counsel