

DECISION

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

60002

FILE: B-184129

DATE: November 21, 1975

MATTER OF: Sierra Pacific Industries

97695

DIGEST:

A protester's failure to receive notice of sale is not sufficient reason to justify upsetting award to sole bidder on informally readvertised timber sale which had been conducted in accordance with Forest Service regulation permitting sale of previously advertised timber without further advertisement.

Sierra Pacific Industries protests the award of the Grays Timber Sale, contract No. 010169, by the Forest Service, Department of Agriculture to Louisiana-Pacific Corporation. Sierra contends it was denied an opportunity to participate in the sale since it did not receive a copy of the solicitation.

The Grays Sale was originally offered on August 23, 1974, but no bids were received. On May 22, 1975, Sierra made a request to purchase the Grays Sale. Sierra states that the Lassen timber management officer advised that he would mail letters to all prospective bidders to determine if there was any interest from other parties. In this connection, Forest Service regulations provide in 36 C.F.R. § 221.12 (1975) as follows:

"Forest Officers may sell, within their authorization, without further advertisement, at not less than the appraised value, in quantities to suit purchasers, any timber previously advertised for competitive bids but not sold because of lack of satisfactory bids and any timber on uncut areas included in a contract which has been terminated by abandonment, cancellation, contract period expiration, or otherwise if such timber would have been cut under the contract."

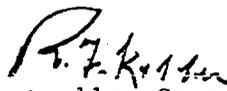
At the time of Sierra's request to purchase the previously advertised Grays Sale, the Forest Service informed Sierra of this regulation and also of the Forest Service policy that where competitive bidding is likely, informal bids are to be solicited. In accordance with this policy, informal bids were solicited on May 23, 1975, from 13 current timber sale contract holders, including Sierra Pacific Industries. The Forest Service reports that the

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mailing envelopes were checked against the mailing list to assure that all potential bidders were included. Louisiana-Pacific submitted the only bid, and the sale was awarded on June 2 to that firm at the advertised rates. Sierra contends that it did not receive the notice of sale which the Forest Service mailed on May 23 and has requested that the sale again be reoffered for bids so that all interested parties may have a chance to participate.

However, there is no indication that the Forest Service deliberately failed to provide Sierra with the notice of sale and solicitation package. Under the above regulation, the Forest Officer was authorized to sell the subject timber at not less than the appraised value without further advertisement. Accordingly, we must conclude that in the circumstances the award to Louisiana-Pacific was authorized and valid, notwithstanding Sierra's failure to receive the notice of sale and accompanying solicitation.

Therefore, the protest is denied.


Acting Comptroller General
of the United States