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Richard Martin

Proc. II

DECISION



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

FILE: B-187602

DATE: December 17, 1976

MATTER OF: C & E Paper Storage, Inc.

DIGEST:

Where bidder does not receive and acknowledge amendment to IFB and such failure did not result from deliberate effort to exclude him from competition, the bid must be rejected as nonresponsive.

C&S Paper Storage, Inc. (C&S) protests the award of a contract by the Government Printing Office (GPO) under IFB No. 10646 to the Washington Storage & Distribution Center, Inc. C&S states that when it submitted its bid on the scheduled opening date of September 29, 1976, it was informed that the opening date had been changed to September 24, 1976, by an amendment which it never received.

The IFB was mailed to 19 firms on September 9, 1976. It called for unloading railroad freight cars containing paper stock and then loading and hauling this material by truck to the GPO warehouse. Because the then current contract expired on September 30, 1976, the GPO decided that the opening date originally scheduled would not provide sufficient time to process a contract award and avoid an interruption of service. Therefore, on September 13, 1976, it sent to the 19 firms an amendment changing the opening date to September 24, 1976. By that date, the GPO had received only one response which declined to bid although it did acknowledge receipt of the amendment. The GPO then negotiated a 3-month contract with the contractor who had been providing the service.

C&S states that it knows of at least two other companies which failed to receive the amendment. Although C&S suspects that the amendment was never mailed, the GPO insists that it was. GPO also asserts that the number of bidders on previous contracts was usually not so large as to cause surprise at the receipt of no responsive bids in this instance.

Generally, if a bidder does not receive and acknowledge a material amendment to an IFB and such failure is not the result

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of a conscious and deliberate effort to exclude the bidder from participating in the competition, the bid must be rejected as nonresponsive. Mike Cooke Reforestation, B-1A3549, July 2, 1975, 75-2 CPD 8. In our opinion the record does not indicate that a deliberate effort was made to exclude C&E from participating in the competition.

It is obvious that the problems presented in this case could have been avoided by an earlier release of the IFB. We understand, however, that the GPO was not informed until shortly before September 9, 1976, that the nearby railroad siding, whose temporary closing necessitated the hauling service, would not be reopened at the end of September as scheduled.

Accordingly, the protest is denied.

Milton Foster

Acting Comptroller General
of the United States