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DECISION



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

FILE: B-190867

DATE: January 25, 1978

MATTER OF: Free State Builders, Inc.

DIGEST:

Unintentional action of procuring agency which precludes protester (incumbent contractor) from competing on procurement is not reason to cancel solicitation and resolicit where protester's allegations show no conscious or deliberate attempt to prevent protester from competing and where protester's allegations fail to show either inadequate competition or unreasonable prices from bids submitted. Protest is, therefore, summarily dismissed.

Free State Builders, Inc. (FSB), protests the failure of the General Services Administration (GSA) to advise it of solicitation GS-03B-77048. FSB seeks to have all bids received under the solicitation rejected and new bids solicited "under a more aggressive solicitation procedure to insure competitive bidding."

The facts as presented by FSB concerning this solicitation are as follows. FSB was the incumbent contractor for an electrical work contract that expired on November 30, 1977. FSB inquired on several occasions regarding the possibility of an extension by GSA on its contract. According to FSB, GSA had on past occasions decided on the last day of the contract period to extend FSB's contract. FSB also had several telephone conversations with GSA officials in October 1977. Therefore, FSB contends that it is quite unlikely for GSA to have been unaware that FSB desired either to have its contract extended or to submit a bid for a new contract.

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FSB further states that GSA had an interoffice memorandum that advised contracting personnel not to mail any documents to any contractor at its post office address. FSB alleges that this interoffice memorandum was an additional reason it had not been advised of the solicitation because it continued to request that solicitations and other communications be sent to the post office address that it had used for 12 years.

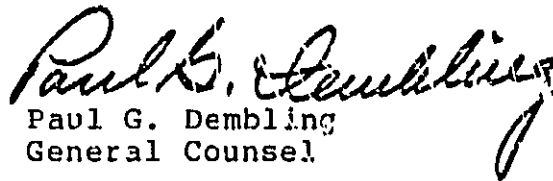
Unintentional actions of an agency which result in a potential supplier of services being precluded from competing on a procurement do not in themselves constitute a compelling reason to resolicit, as long as adequate competition was generated, reasonable prices were obtained, and no deliberate or conscious attempt was made to preclude any potential supplier from competing. See Valley Construction Company, B-185684, April 19, 1976, 76-1 CPD 266. This is true even where the potential supplier of services is an incumbent contractor. See Bakte Bennett Laboratory, B-190017, November 15, 1977, 77-2 CPD 373.

FSB states that three bidders submitted bids on the protested solicitation. We believe, then, that adequate competition existed even though FSB contends that usually between 8 and 10 bidders bid on the type of work solicited by the solicitation. Bakte Bennett Laboratory, supra. As to the bid prices, FSB makes no allegation that the prices submitted by the three bidders were unreasonable.

Finally, we believe that the failure of GSA to advise FSB of the solicitation was not caused by any deliberate or conscious attempt to keep FSB from bidding. The failure of FSB to compete occurred either through inadvertent clerical error or through the action of FSB in not providing GSA with an alternate mailing address. The procurement was advertised in the Commerce Business Daily. We consider such publication as notice to all parties. Del Norte Technology, Inc., B-102318, January 27, 1975, 75-1 CPD 53.

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Accordingly, we see no need to further consider this matter and the protest is summarily dismissed. See What-Mac Contractors, Inc. - Reconsideration, B-187782, January 14, 1977, 77-1 CPD 34; Oregon Wrestling Cultural Exchange, B-189564, August 8, 1977, 77-2 CPD 95.


Paul G. Dembling
General Counsel