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DECISION



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

FILE: B-201553

DATE: May 21, 1981

MATTER OF: Pluribus Products, Inc.

DIGEST:

[Protest of GSA Request for Proposals]

Procuring activity is held not to be ultimately responsible for protester's failure to submit timely proposal for item described in copy of RFP which protester possessed prior to proposal due date. Although item was not specifically described on RFP's cover sheet, item was specifically listed on page 21 of RFP; therefore, protester, but for its failure to carefully examine RFP, would have been in position to submit timely proposal for item.

Pluribus Products, Inc. (Pluribus), has submitted a protest under request for proposals (RFP) No. 7CF-51983/L5/7FC issued on October 17, 1980, by the General Services Administration, Region 7, Fort Worth, Texas, on a multiple-award basis. The RFP covered an indefinite quantity requirement for various items described in FSC Group 99, Part IV, Section A, Class 9905, Signs. Only one of the described items--a requirement for "chapel boards"--is involved in this protest. This item was described on page 21 of the RFP as follows: "Display Systems including * * * directory and chapel boards."

Pluribus' position is essentially that GSA effectively precluded Pluribus from submitting a proposal for the item. Specifically, the company states that, although it received a copy of the RFP prior to the proposal due date, it did not "identify" the item on page 21 in sufficient time to submit a timely proposal. The company argues that it should not be held responsible for overlooking the item description because:

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- (1) The RFP's cover sheet did not expressly contain the item description for chapel boards, but contained only the pertinent FSC group classification which had been recently changed without notice to the company. This change, the company further argues, should have been listed on the cover sheet of the RFP as a "significant change";
- (2) The procurement was conducted by a GSA activity other than the one which conducted a prior procurement for the item; and
- (3) GSA did not furnish the company with a "complete bid set" but only a copy of the solicitation. This circumstance led the company, which had a prior GSA contract for the item and considered itself to be an "active bidder" for the chapel boards, to assume that the RFP did not cover the item. Specifically, Pluribus notes that the RFP stated that "complete bid sets" had been furnished to "active bidders who responded to previous solicitations for similar commodities."

In reply, GSA maintains that it properly publicized the requirement in the Commerce Business Daily (CBD); that it transmitted a copy of the RFP to all of those firms, including Pluribus, which appeared on appropriate GSA bidders' lists; and that it was under no obligation to inform Pluribus that the FSC classification in question had been changed. Further, GSA notes that of the 68 proposals submitted in response to the RFP, seven were submitted from concerns which have "chapel boards in their catalogs" and that the "net prices offered by the seven competitors for the chapel board requirement are equal to or better than those prices offered to their most favored customers." Given these circumstances, and since GSA is of the view that "Pluribus [had] a responsibility to read the RFP and should be deemed to have knowledge of [the] item description," GSA argues that the protest is without merit.

It is well established that the responsibility for the preparation and submission of a bid or proposal is upon the bidder. See, for example, 31 Comp. Gen. 323 (1952). Implicit in that responsibility is the duty of a potential bidder or offeror to examine carefully the solicitation documents which describe the requirement to be procured. It is clear that if Pluribus had carefully examined the RFP here, it would have noted the requirement for chapel boards described above. Indeed, it ultimately detected this requirement on its own reading. In these circumstances, we must conclude that Pluribus, rather than GSA, was ultimately responsible for the company's failure to identify the item in question in sufficient time to submit a timely proposal. We so conclude even though GSA did not inform the company that chapel boards were now being procured by a GSA activity other than the one which conducted an earlier procurement. Further, it is our view that Pluribus must bear this responsibility even though GSA may have erroneously considered it to be an inactive bidder for these items. Moreover, we are not aware of any requirement that changes in FSC classifications be specifically brought to the attention of potential bidders as "significant changes" on the cover sheets of solicitations.

The circumstances of this case are distinguishable, therefore, from the circumstances present in several decisions (see, for example, Plattsburg Laundry and Dry Cleaning Corporation, 54 Comp. Gen. 29 (1974), 74-2 CPD 27) cited by the protester where there was evidence of a "conscious and deliberate" governmental decision to deny a prospective bidder the opportunity of competing in a procurement.

Protest denied.

Notwithstanding our denial of the protest, we are recommending that GSA consider the feasibility of requiring that pertinent FSC classification changes be listed as "significant changes" on the cover sheets of future solicitations; in addition, we are recommending that GSA should give consideration to publishing notices in the CBD of changes in FSC classifications affecting specific procurements. Finally, we are recommending that GSA list the detailed information on the items to be purchased on the schedule of any

future solicitation unlike the case here where the detailed item information was found only on page 21 of a 25-page RFP.

Milton J. Aorlan

Acting Comptroller General
of the United States