

DECISION



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

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FILE: B-209450

DATE: November 9, 1982

MATTER OF: Scripto, Inc.

DIGEST:

1. Protest objecting to an IFB requirement, apparent from the face of the IFB, filed after bid opening, even though protester did not receive a copy of the IFB until after bid opening, is dismissed as untimely where IFB was synopsisized in Commerce Business Daily prior to the bid opening date.
2. Even though protester received a copy of the IFB 1 day after the scheduled bid opening date, the protest is summarily denied since there is no evidence that the protester was deliberately or consciously excluded from the bidding or that adequate competition resulting in reasonable prices was not obtained by the procuring agency.

Scripto, Inc. (Scripto), the incumbent contractor, protests the failure of its firm to receive a copy of invitation for bids (IFB) No. 2YC-EAI-A-A1488-S, issued by the General Services Administration (GSA), in time to submit a bid. The IFB was issued on September 16, 1982, and bid opening was scheduled for September 30. The Commerce Business Daily (CBD) announcement of the IFB was September 21, 1982. Scripto received the IFB on October 1, 1982.

It is clear from Scripto's initial submission that a portion of this protest is untimely and the remainder without legal merit. Therefore, we are deciding the matter without obtaining an agency report. The Brunton Company, B-192243, August 29, 1978, 78-2 CPD 151. The protest is dismissed in part and summarily denied in part.

Essentially, it is Scripto's position that since it was not given an opportunity to compete, any award of a contract made pursuant to this IFB must be terminated for the convenience of the Government. Scripto also argues that the solicitation requirement that bidders submit a bid within 2 weeks is an inadequate amount of time.

Our Bid Protest Procedures require that protests based on alleged apparent improprieties in an IFB be filed with our Office prior to bid opening. See 4 C.F.R. § 21.2(b)(1) (1982). While Scripto did not receive the IFB, the announcement was published in the CBD, which constitutes constructive notice of the IFB and its contents. See Paulmar, Inc., B-207321, May 27, 1982, 82-1 CPD 503. Therefore, since the 2-week requirement was apparent prior to bid opening, we dismiss this portion of Scripto's protest filed after that date as untimely.

With respect to the remaining issue, we have been informally advised by a representative of GSA that two firms submitted bids. Also, we have been informed that the contracting officer considers the prices of the responsive bids received to be reasonable.

In numerous decisions we have held that where adequate competition resulted in reasonable prices and where there was no deliberate intent on the part of the procuring agency to preclude a bidder from competing, bids need not be rejected solely because a bidder (even the incumbent contractor) did not receive a copy of the IFB in a timely manner. See Kilgore Karpets Kare, B-206737, April 6, 1982, 82-1 CPD 323. Our Office has also held that adequate competition is normally obtained when competitive bids have been received. Reliable Elevator Corp., B-191061, April 27, 1978, 78-1 CPD 330.

Here, two responsive bids were received and Scripto has presented no evidence that it was deliberately excluded from competition. Furthermore, there is no indication from the record that the late receipt of the IFB resulted from anything other than the mail.

The protest is dismissed in part and summarily denied in part.

for *Milton J. Forolan*
Comptroller General
of the United States