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DECISION



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

FILE: B-211711

DATE: June 7, 1983

MATTER OF: Granite Diagnostics, Inc.

DIGEST:

1. Where an assertion that branches of the Army colluded to exclude the protester from bidding is unsupported and is denied by the Army, GAO concludes that the protester has not carried its burden of proof to establish that it was deliberately or consciously excluded from competing.
2. The propriety of a particular procurement is judged with regard to the Government's interest in obtaining reasonable prices through adequate competition, not on whether every potential contractor was included. Adequate competition was obtained where the Army received two responsive, reasonably priced quotations.

Granite Diagnostics, Inc. (Granite), protests the failure of its firm to receive a copy of request for quotations (RFQ) No. 924 issued by the Department of the Army (Army) for the supply of microbiology media.

It is clear from Granite's initial submission that its protest is 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 summarily denied.

The Contracts Branch of the Army's Contracting Division had assured Granite that it would receive an invitation to bid for the supply of microbiology media. The Contracts Branch had been making all purchases over \$10,000. However, in October 1982, the Purchases Branch of the Contracting Division assumed the responsibility of all purchases up to \$25,000. The Contracts Branch transferred no documents to the Purchases Branch pursuant to this switch. When the Purchases Branch conducted the instant procurement, it solicited three firms, not including Granite.

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Granite contends that of the three firms solicited, one does not sell microbiology media, another sells only through wholesalers, and the third, the awardee, is a wholesaler of microbiology media. Granite further claims that since the Army hospital for which the purchase was being made recommended the three firms solicited and since the awardee is a wholesaler, there apparently was collusion between Army lab personnel and the Purchases Branch regarding who would have the opportunity to bid. Thus, Granite essentially contends that there was inadequate competition and that the Army deliberately or consciously excluded it from bidding.

The Army responded to Granite's contentions in a letter addressed to Granite. The Army stated that the Purchasing Branch failed to solicit Granite because the Purchasing Division neither knew of any promises the Contracts Branch had made to Granite nor had any documents indicating that Granite should be invited to bid. Rather, the Army claimed that the Purchases Branch obtained two of the procurement sources from the Army's regular bidders list and that the Army hospital recommended the third source. The Army also advises that two of the firms solicited submitted responsive quotations and that the contracting officer considered the prices to be reasonable.

As to the contention that there was collusion within the Army with the result that Granite was deliberately excluded from the bidding, we have held that the protester has the burden of proving its case and we will not attribute improper motives to procurement personnel on the basis of inference or supposition. W.H. Mullins, B-207200, February 16, 1983, 83-1 CPD 158. Since the record contains only Granite's unsupported assertions and the Army's denial, we must conclude that Granite has not carried its burden of proof on this issue. See Remington Rand Corporation; SCM Corporation; Olivetti Corporation, B-204084, B-204085, B-204085.3, B-204085.6, May 3, 1982, 82-1 CPD 408.

Regarding the adequacy of the competition under the instant RFQ, we have held that while purchasing activities generally should seek maximum practicable competition, we judge the propriety of a particular procurement not on whether every potential contractor was included, but from the perspective of the Government's interest in obtaining

reasonable prices through adequate competition. W.H. Mullins, supra. We have further held that adequate competition is obtained where two responsive, reasonably priced bids have been received. See Scripto, Inc., B-209450, November 9, 1982, 82-2 CPD 431. Since the Army received two responsive, reasonably priced quotations, we find this aspect of Granite's protest without merit.

Accordingly, the protest is summarily denied.

for Milton J. Acosta
Comptroller General
of the United States