

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

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FILE: B-213057**DATE:** March 13, 1984**MATTER OF:** Lewis D. Evans**DIGEST:**

1. Failure to provide protester with copy of solicitation does not render award improper where protester has neither alleged nor shown that procuring agency deliberately precluded protester from competing and did not receive adequate competition without protester's participation.
2. Publication of a synopsis in the Commerce Business Daily constitutes constructive notice to prospective offerors of a solicitation and its contents.

Lewis D. Evans (Evans) protests an award of a contract by the Forest Service, United States Department of Agriculture, under invitation for bids (IFB) No. R5-SCZ-83-19 for the rehabilitation of the Lake Hume Dam in the Sequoia National Forest, Tulare County, California. Evans protests that he was deprived of the opportunity to bid on the contract because he did not receive a copy of the solicitation.

The protest is denied.

On February 18, 1983, Evans wrote to the Sequoia National Forest supervisor's office requesting bid materials for the Hume Dam repair work. The contracting officer responded on March 1, stating that the Forest Service had canceled the Lake Hume repair because it had decided the work was unnecessary. On March 9, Evans telephoned the contracting officer's office and again asked about the Lake Hume repair work; a secretary in the office informed him that no information was available at that time.

In July, the Forest Service reversed its earlier decision and decided to proceed with the repair work on the dam. On July 9, 1983, Evans asked the same contracting officer for a copy of the bid materials. The contracting

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officer informed Evans to follow up on this verbal request with a written request to be included on the bidders list.

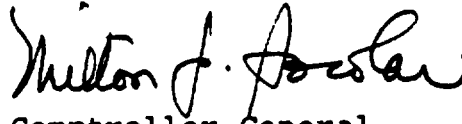
Because there had been no need for dam repair work in that area for 30 years, the Forest Service had no established bidders list to use in soliciting bids. Therefore, it advertised the project in approximately 25 trade publications and in the August 12, 1983, Commerce Business Daily. Additionally, copies of the IFB were sent to 15 firms whose names were provided by the Sequoia National Forest and the Army Corps of Engineers. Evans was not provided with a copy of the solicitation.

On September 6, the day of bid opening, Evans requested the Forest Service to delay bid opening until he could submit a bid. The Forest Service proceeded with the bid opening as scheduled and determined that it had received adequate competition and that the prices received were reasonable. On September 15, Evans protested to our Office that award of the contract would be improper since he had been unfairly excluded from competing.

While it is unfortunate that the protester was not provided with a copy of the solicitation, we cannot agree that the award was improper. We have held in numerous decisions concerning an agency's failure to solicit a particular contractor that, where adequate competition resulted in reasonable prices and where there is no deliberate or conscious intent on the part of the procuring agency to preclude a bidder from competing, an award is not improper solely because a bidder did not receive a copy of a solicitation. Thomas G. Morrow, B-208878, October 7, 1982, 82-2 CPD 316; Preen Building Maintenance Company, B-182914, April 10, 1975, 75-1 CPD 222. Here, there appears to have been adequate competition and the protester does not allege or show that he was excluded deliberately from the competition.

Furthermore, we have held that publication of a synopsis in the Commerce Business Daily constitutes constructive notice of a solicitation and its contents. American Radhial Inc., B-212384, August 12, 1983, 83-2 CPD 204. Therefore, even though Evans did not receive the solicitation, he did have constructive notice of the solicitation and the closing date. Accordingly, we find no basis to disturb the procurement.

The protest is denied.

for 
Comptroller General
of the United States