

12939 *Handwritten* Proc II



DECISION

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

[Protest of Bid Rejection for Lateness]

FILE: B-196289

DATE: February 27, 1980

MATTER OF: Colors & Wallcoverings Unltd.

DIGEST:

Agency's failure to furnish protester correct solicitation package, with result that bid was submitted late and therefore rejected, does not provide basis to disturb award, since agency obtained adequate competition resulting in reasonable bid prices and agency did not intend to preclude protester from competing.

Handwritten: 2/29/80

Colors & Wallcoverings Unltd. (Colors) protests the General Services Administration's (GSA) rejection of its late bid on GSA Project ROR 96195-A, a solicitation for the interior and exterior painting of the Pioneer Courthouse in Portland, Oregon, issued by GSA's Regional Office, Auburn, Washington.

Handwritten: 2/26/3978

Prior to issuing the invitation for bids (IFB) under which the contract was awarded, the Regional Office offered the project to the Small Business Administration (SBA) under section 8(a) of the Small Business Act, 15 U.S.C. § 637(a) (1976), as amended by the Act of October 24, 1978, Pub. L. No. 95-507. The 1978 amendment authorizes SBA to enter into contracts with other Government agencies and to let subcontracts to socially and economically disadvantaged small business concerns to perform such contracts. Vector Engineering, Inc., B-193874, October 11, 1979, 79-2 CPD 247. SBA declined the project because it was unable to find a suitable subcontractor. On August 23, 1979, the Regional Office issued the IFB as a small business set-aside. Bid opening was scheduled for September 21.

Colors was not on GSA's bidders mailing list, but learned of the procurement from a trade magazine. In

Handwritten: 008761

Handwritten: 111653

order to obtain bidding information, a Colors representative visited GSA's Portland Field Office where he apparently obtained the obsolete 8(a) program forms and, according to Colors, amendments one and three to the current IFB. Colors asserts that on September 19, 1979, it sent its bid to SBA in accordance with the instructions on the obsolete bid package. The bid was forwarded by SBA to GSA, which received it on October 1, two days after award of the contract to the low bidder. There is no evidence on the record to suggest that Colors was deliberately misled by the Field Office or that GSA's Regional Office was aware of the situation.

The propriety of a particular procurement depends upon the adequacy of the competition obtained and reasonableness of the prices received, not whether every possible prospective bidder was afforded an opportunity to bid, 52 Comp. Gen. 281, 283 (1972), and an award need not be disturbed merely because an agency precluded a prospective bidder from competing, so long as it did not deliberately or consciously intend to do so. Check Mate Industries, Inc., B-194612, June 12, 1979, 79-1 CPD 413.

GSA received ten bids, which in our view is adequate competition, and the low bid was considered to be reasonable. See Reliable Elevator Corp., B-191061, April 27, 1978, 78-1 CPD 330. Accordingly, since a contracting officer must reject a late bid except in circumstances not present here, Unitron Engineering Co., Inc., 58 Comp. Gen. 748 (1979), 79-2 CPD 155, we find no legal merit to the protest.

We note that GSA has advised us that in an attempt to avoid a recurrence of this situation, it has furnished Colors an application for its bidders mailing list and that the agency will review the procedures under which field offices distribute bidding documents.

The protest is denied.


Deputy Comptroller General
of the United States