



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

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B-177547

May 29, 1973

AIR MAIL

House of Hope Foundation
35 Nguyen Trung Truc
Saigon, Vietnam

Attention: Mrs Myosook H. Whitcomb
President

Gentlemen:

By telefax dated November 30, 1972, and subsequent correspondence, you protested against award of a contract to another firm under request for proposals (RFP) No. DAJBO2-73-R-001, issued November 15, 1972, by the United States Army Contract Administration Office, Vietnam (USACAOV).

The RFP invited offers for non-personal services to operate and manage the Newport Commissary in Saigon, Vietnam. The initial closing date for proposals was November 24, 1972. The RFP was amended on November 24, 1972, to add a requirement that the contractor provide two food inspectors, and the closing date for receipt of revised proposals was extended to 4 p.m., November 30, 1972. Thirty-seven copies of the solicitation were distributed and at least 20 proposals were received. An award was made on December 9, 1972, in accordance with Armed Services Procurement Regulation (ASPR) 2-407.8(b)(3), which allows the making of an award prior to the resolution of a protest when the contracting officer determines it is in the best interest of the Government.

You contend that your firm was not given an opportunity to submit a proposal because you were not sent a copy of the solicitation, even though you had been led to believe that you would receive future solicitations by a letter dated November 1, 1972, from the U.S. Army Agency, Hawaii, advising that it would henceforth handle Vietnam procurements. Furthermore, you contend that when an agent of your firm visited the contracting officer and requested a copy of the RFP on November 30, 1972, the request was arbitrarily denied even though you could have prepared and submitted a proposal that day.

The administrative response to your first contention is that due to the urgency of the requirement it was determined that the RFP would

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be issued and negotiations conducted by the USACAOV, rather than by the Hawaii activity, as was provided in the letter you refer to. Solicitations were mailed to several firms on the bidder's mailing list, established by the procuring activity. However, due to the size of the list, rotation of prospective bidders' names on the mailing list was employed as provided in ASPR 3-503, and your firm was not sent an RFP.

With regard to the request for a copy of the RFP by your firm's agent on November 30, 1972, it is reported that he was advised that copies of the solicitation were exhausted and since proposals were due that day there was insufficient time to have additional copies printed. It is further reported that your agent stated that it was not possible to prepare a responsive proposal by closing time and that he requested an extension of the closing date, which was denied due to the urgency of the procurement.

Our Office has held that the propriety of a particular procurement from the standpoint of the adequacy of the solicitation of sources must be determined from the Government's point of view upon the basis of whether adequate competition and reasonable prices were obtained, and not upon whether every possible bidder was afforded an opportunity to submit a proposal. B-172307, July 16, 1971, and 50 Comp. Gen. 565, 571 (1971). As noted above, 37 copies of the RFP were distributed and more than 20 proposals were received, which establishes that adequate competition and reasonable prices were obtained.

The record reveals that there is a dispute as to the contents of the conversation on November 30, 1972, between your agent and the contracting officer. You insist that your agent was refused a copy of the solicitation although he indicated to the contracting officer that your firm could prepare and submit a proposal the same day. But the contracting officer states that your agent was refused a copy of the RFP after he admitted that he could not prepare a responsive proposal within the time allowed and requested a time extension. We are not in a position to conclusively determine the contents of this reported conversation. We believe it would have been better procedure on the part of the contracting officer, however, to have made a reasonable effort to provide your agent with a copy of the RFP as requested. On the other hand, in view of the urgency of the procurement, we do not believe the contracting officer was arbitrary in refusing to extend the closing date for receipt of proposals in order to permit your firm the opportunity to submit a proposal.

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In the circumstances, your protest must be denied.

Sincerely yours,

Paul G. Denblin

For the Comptroller General
of the United States