



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Gas Monitoring, Inc.

File: B-272121

Date: August 30, 1996

Todd Hedgepeth for the protester.

Charlma O. Jones, Esq., Department of Veterans Affairs, for the agency.

Sylvia Schatz, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency's sending of request for quotations (RFQ) to incorrect street address, and thereby preventing protester from receiving RFQ and submitting quotation, is not basis for upsetting award where agency had sent previous correspondence to same incorrect address, correspondence was received by protester, and protester never advised agency that it was using incorrect address.

DECISION

Gas Monitoring, Inc. (GMI) protests the award of a purchase order to Medical Gas Maintenance and Certification, Inc. under request for quotations (RFQ) No. 673-96-3-039-0337, issued by the Department of Veterans Affairs (VA) for the performance of services related to the medical piping system and alarm activation calibration at the VA Outpatient Clinic (VAOPC), Orlando, Florida. GMI argues that the VA prevented it from submitting a quotation by sending a copy of the RFQ to an incorrect address.

We deny the protest.

The facts here are straightforward: the agency had the incorrect address for the protester in its vendor file and thus sent a copy of the RFQ to "210," rather than "201," Commonwealth Court, Cary, North Carolina, 27511; as a result, GMI did not receive the RFQ and was unable to submit a quotation. Two quotations were received and award was made to Medical Gas Maintenance and Certification, Inc. at a price of \$14,500.

GMI argues that, since project estimates it submitted to the agency prior to issuance of the RFQ contained the firm's correct address, the agency had no excuse for sending the RFQ to the wrong address; since this agency error precluded GMI from

competing, GMI asserts that the competition should be reopened so it can submit a quotation.

Concurrent with the agency's obligation to obtain maximum practicable competition (generally, by soliciting at least three sources) under the simplified acquisition procedures applicable here, Federal Acquisition Regulation § 13.106-1(a)(1),(3) (FAC 90-29), prospective offerors have a duty to avail themselves of every reasonable opportunity to obtain solicitation documents. See Lewis Jamison Inc. & Assocs., B-252198, June 4, 1993, 93-1 CPD ¶ 433. Where a prospective contractor fails in this duty, we will not sustain a protest even where the agency also failed to meet its solicitation dissemination obligation. Freedom Elevator Corp., B-256357, June 10, 1994, 94-1 CPD ¶ 361. In considering such situations, we look to see whether the agency or the protester had the last clear opportunity to avoid unreasonably precluding the protester from competing. Id.

It is clear that the agency made the initial transpositional error in GMI's street address when it entered GMI on its vendor list, and that this error ultimately resulted in GMI's not receiving the RFQ. However, as indicated above, this is not where our analysis ends. The record also shows that the agency had corresponded with GMI using this same incorrect address on at least three prior occasions since January 1996; specifically, the VA had awarded GMI three other purchase orders which it sent to the same incorrect address. Although GMI apparently received these purchase orders--as evidenced by its completion of the ordered work--GMI never advised the agency that it was using the wrong address. Thus, after the VA's initial error, GMI was in a position to correct the error, but did not do so. Moreover, GMI's failure to advise the agency that it was using the wrong address actually gave the agency every reason to believe that the address it had been using was correct; thus, any inclination the agency might otherwise have had to check its address for GMI against the address on the estimates furnished by GMI was eliminated. We realize that GMI also had no particular reason to check the correctness of the address on the agency's correspondence. Again, however, prospective offerors have the primary responsibility for assuring their own receipt of solicitation documents. We therefore must conclude that GMI had the last clear opportunity to assure that it received the RFQ at its correct address, and that its nonreceipt of the RFQ does not provide a basis for sustaining the protest.

The protest is denied.

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