



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Alonzo O. Bliss Properties
File: B-249131
Date: August 11, 1992

Richard O. Duvall, Esq., and Richard L. Moorhouse, Esq.,
Dunnells, Duvall & Porter, for the protester.
Patricia S. Grady, Esq., and Gary F. Davis, Esq., General
Services Administration, for the agency.
John Formica, Esq., and James A. Spangenberg, Esq., Office
of the General Counsel, GAO, participated in the preparation
of the decision.

DIGEST

The General Services Administration did not act improperly
in first seeking expressions of interest and offers for
a building site, and then instituting a condemnation pro-
ceeding to acquire protester's site, where the protester's
site was selected by the agency but the protester and agency
were unable to reach an agreement as to a price for the
site.

DECISION

Alonzo O. Bliss Properties protests the actions of the
General Services Administration (GSA) concerning its acqui-
sition of a building site for the Department of Justice in
Washington, D.C.

We dismiss the protest.

On January 14, 1991, GSA published in The Washington Post an
advertisement seeking "expressions of interest" in providing
a building site for the Department of Justice. GSA received
expressions of interest from 12 offerors in response to the
advertisement. The offerors were provided with a "Contract
to Sell Real Property" (Contract), and instructed that they
were to submit to GSA a preliminary title report, purchase
price for the site, plat or sketch showing the dimensions
of the land offered, names and correct widths of the abut-
ting public streets, sidewalks, and alleys, and zoning
requirements, along with a completed Contract, by May 8.

Eight offerors, including Bliss, responded to this request,
with Bliss offering its site at a price of \$34,000,000. GSA
subsequently requested appraisals of the offered sites,

evaluated the sites, and conducted environmental assessments. The agency began negotiations with four of the offerors, including Bliss, in November 1991. As a result of its negotiations with the agency, Bliss reduced its price to \$27,800,000.

By letter dated January 6, 1992, GSA requested that updated offers be submitted. Bliss responded to this request, with Bliss again offering its site at a price of \$27,800,000. Pursuant to a GSA request, Bliss subsequently submitted a clarification of its offer setting forth Bliss's position regarding the value of its site. By letter dated March 2, Bliss further reduced its offered price to \$26,700,000.

GSA states that it determined that the Bliss site was most advantageous to the United States, and informed Bliss of this determination. GSA also advised Bliss that it was willing to pay \$23,400,000 for the site rather than \$26,700,000 as proposed by Bliss. On June 8, Bliss received a letter from GSA informing Bliss that because an agreement could not be reached as to the purchase price of the site, GSA, in the absence of an offer acceptable to it, would cause the institution of condemnation proceedings to acquire the site.¹

Bliss protests that GSA has acted improperly by advertising its requirement for a site and seeking offers pursuant to the Public Buildings Act of 1959 (PBA) and then "abandon[ing] the procurement and . . . condemn[ing] the property of the offeror of the favored site." Bliss requests, among other things, that our Office "direct GSA to halt any condemnation proceedings."

GSA acted here under the authority of the site acquisition provisions of the PBA, 40 U.S.C. § 604 (1988), which provide that:

"The Administrator [of GSA] is authorized to acquire, by purchase, condemnation, donation, exchange, or otherwise, such lands or interest in lands as he deems necessary for use as sites, or additions to sites, for public buildings . . .

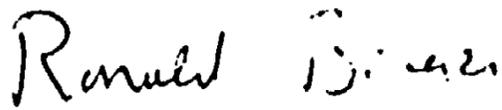
"In selecting a site under this section the Administrator . . . is authorized to select such site as in his estimation is most advantageous to the

¹GSA reports that it intends to condemn Bliss's site, but does not yet "have all necessary approvals for its condemnation action."

United States, all factors considered"
(Emphasis added.)

As indicated, the PBA expressly provides that property may be acquired by condemnation. This Act does not prohibit GSA from instituting condemnation proceedings after seeking expressions of interest and offers under the PBA and failing to arrive at an acceptable price with the offeror of the site found "most advantageous." Thus, there is no merit to the contention that GSA acted improperly in instituting or even threatening to institute a condemnation proceeding after failing to reach an agreement as to the purchase price of Bliss's site. See U.S. v. Acquisition of Condemned Land, 753 F.Supp. 50, 55 (D. P.R. 1990) (authority of the United States under the PBA to acquire land by "resort[] to its trump card, condemnation" is not diminished by the fact that it first tried without success to obtain the land through negotiation).

The protest is dismissed.


for James F. Hinchman
General Counsel