

DECISION



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

FILE: B-203067

DATE: May 28, 1981

MATTER OF: Don-Ko Water Treatment Company

DIGEST:

In view of policy directing agency to obtain maximum practicable competition on procurements, agency may not preclude bidder from competing on resolicitation merely because its bid under prior, canceled solicitation was nonresponsive.

The Don-Ko Water Treatment Company protests the award of a contract to the Drew Chemical Company by the Department of the Air Force for water treatment formulations and services at the Norad Complex, Peterson Air Force Base, Colorado.

The protester contends that it was informed by telephone on March 27, 1981, that it was the successful offeror on the contract, that it should receive the purchase order by March 31, and that delivery was desired no later than April 3. On March 31, however, the protester was notified that the solicitation had been canceled as a result of a protest filed by Drew to the effect that Drew was entitled to an award for two of the nine items in the solicitation. The requirement was then resolicited and, on April 15, Don-Ko was informed that Drew had been awarded the contract.

The essence of Don-Ko's protest is that Drew should not have been permitted to compete under this resolicitation because its bid on the original solicitation contained uncertainties as to pricing and was thus non-responsive. It concludes that the award to Drew under the resolicitation therefore may have been improper. The protest is without merit.

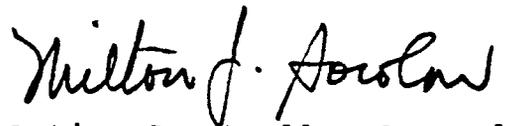
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It is the well-established position of our Office that a bidder cannot be excluded from competing on a resolicitation merely because its bid on the original solicitation was nonresponsive. See, for example, Kathryn A. Rogerson, B-202366, March 26, 1981, 81-1 CPD 228. This view reflects the basic requirement that procurements "be made on a competitive basis to the maximum practicable extent." Defense Acquisition Regulation § 1-300.1 (1976 ed.). Thus, even assuming that, as Don-Ko alleges, Drew's original bid was non-responsive, that fact would afford no legal basis for excluding Drew from the recompetition. Consequently, Drew was properly permitted to compete on the resolicitation and we find no basis for objecting to the award.

Because we believe it clear from Don-Ko's initial submission that the protest is without legal merit, we have reached the decision without requiring a report from the procuring activity. Hardwick Knitted Fabrics, Inc., B-201245, December 16, 1980, 80-2 CPD 435.

The protest is summarily denied.


Acting Comptroller General
of the United States