

Protest of) Date: November 22, 1988
FUMIYE NINOMIYA)
Solicitation No. 948-69-88) P.S. Protest No. 88-74

DECISION

Mrs. Fumiye Ninomiya has protested the failure of the contracting officer at the San Francisco Transportation Management Service Center, to provide her with a copy of Solicitation No. 948-69-88, for highway transportation of mail from El Granada, CA, to the San Francisco Airport Mail Facility, or to post copies of the solicitation in the post offices served by the route (including Moss Beach, Montara, and Half Moon Bay). The solicitation was issued April 22, 1988, and, according to a copy of a memorandum which accompanies the contracting officer's report, transmitted to the postmasters at El Granada, Moss Beach, Montara, and Half Moon Bay on that date. According to the contracting officer's report, notice of the bids was placed in the National Bidders List Sub-System. Twelve bids were received June 8, and a contract was awarded to Mail Delivery Service on July 29.

At the time of the solicitation, Mrs. Ninomiya was providing service on this route under an emergency contract. She contends that she was not informed of the issuance of Solicitation No. 948-69-88, and that it was not posted at the post offices served by this route. With regard to this latter contention, Mrs. Ninomiya furnishes correspondence from the postmasters at El Granada, Moss Beach, Montara, and Half Moon Bay asserting that the solicitation was not received for posting.

The file furnished by the contracting officer suggests that Mrs. Ninomiya learned of the solicitation and the award or pending award only in late July, when she sought the assistance of her congressman in obtaining an opportunity to bid on the contract. Unsuccessful in that effort, she wrote President Reagan in late September, furnishing copies of that correspondence to her senators and to the Postmaster General. The Assistant Postmaster General, Government Relations, replied to this letter on October 25, and provided Mrs. Ninomiya with a copy of the Postal Service's bid protest regulations. Mrs. Ninomiya's protest under those procedures, dated October 28, was received by this office on November 2.

We are unable to reach the merits of Mrs. Ninomiya's protest. Under our bid protest procedures, to be eligible for consideration, protests must be received in a timely

manner. No protest may be considered which is received more than 10 working days after the information upon which the protest is based is known or should have been known by the protester, or more than fifteen working days after the award of the contract which is the subject of the protest. Here, the protest, received by this office November 2, is clearly untimely.

We would note that on the record before us it would not appear possible to offer the protester any relief even if the protest were timely. Previous decisions of this office have established that in considering whether corrective action is to be taken, we consider:

1. Whether adequate competition was obtained;
2. Whether the failure to comply with requirements intended to secure competition was inadvertent;
3. Whether the offers received were at a reasonable price.

Craig Pattison, P.S. Protest No. 87-115, December 29, 1987, citing Fred Austin Trucking, Inc., P.S. Protest No. 85-38, August 7, 1985, and Shuford Mills, Inc., P.S. Protest No. 83-49, November 8, 1983.

Here, the record indicates that adequate competition (12 offers) was received and there is no suggestion that the prices offered were unreasonable. While we cannot resolve the inconsistency between the contracting officer's assertion that solicitations were sent to the offices on the route and the several postmasters' assertions that they did not receive them, there is no assertion in the protest that that omission or the failure to solicit Mrs. Ninomiya was deliberate, nor is there anything in the record to suggest that these failures (if they occurred) were anything other than inadvertent. In situations similar to this, our previous decisions have denied relief. See, e.g., Craig Pattison, supra.

The protest is dismissed as untimely.

William J. Jones
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[checked against original JLS 3/8/93]