

BEFORE THE
MARYLAND STATE BOARD OF CONTRACT APPEALS

Appeal of ELECTRIC MOTOR INDUSTRIES)
INC.) Docket No.
) MSBCA 1551
Under Univ. of MD Bid #7 1295P)
)
December 28, 1990

Amendments - Once an agency properly distributes amendments pursuant to COMAR 21.05.02.08(B) there is no statutory duty on the State to check with bidders to insure they received the amendments.

APPEARANCE FOR APPELLANT: R. Wayne Hissey
President
Beltsville, MD

APPEARANCE FOR RESPONDENT: Doris F. Low
Staff Attorney
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APPEARANCES FOR INTERESTED PARTIES: Robert C. Turner
President
Turner Electric Company
Baltimore, MD

Walter E. Shade, Jr.
President
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OPINION BY MR. MALONE

This is a timely appeal from a final decision of a University of Maryland (University) procurement officer denying the Electric Motor Industries, Inc., bid protest. The Appeals Board has ruled on the record there having been no request for hearing.

Findings of Fact

1. On July 16, 1990 the University issued Invitation for Bids under No. 71295-P to provide a source for the University for electric motor repair on blanket order basis.

2. In accordance with University procedures, their Purchasing Department used its word processing system to generate mailing

labels to four companies the University believed could have an interest in this procurement. One of the companies was Electric Motor Industries, Inc. (Appellant). These four companies were mailed the bid documents using the University mail labels generated by their word processing system.

3. The four companies were sent bid documents which erroneously recited August 24, 1990 as the bid opening date. The correct bid opening date was August 13, 1990.

4. On July 18, 1990, the University issued Addendum No. 1 correcting the bid opening date to August 13, 1990. The four companies were notified using the same word processor generated mailing labels used to send the original bid documents. There is no suggestion by Appellant that the University either by act or omission treated the mailings to Appellant any differently than the other bidders.

5. On August 13, 1990, the bids were opened and on August 19, 1990 blanket purchase orders were issued to low bidders. No bid from Appellant was received by the University. On August 24, 1990, Appellant telephoned the University and was informed of the Addendum No. 1 change.

6. On August 27, 1990, Appellant filed a protest that it had not received Addendum No. 1 and that the bidding should be reopened. On October 9, 1990, the procurement officer issued a final decision denying Appellant's bid protest which Appellant appealed to this Board on October 23, 1990.

Decision

The procedure for distribution of amendments to Invitation for Bids is given in COMAR 21.05.02.08(B). The University is only required to send the amendments. There is no duty to check with the bidders to insure they received the amendments.

The record fails to explain why Appellant did not receive the amendment. There could be many reasons why the Appellant did not receive the amendment. However, the record does not reflect any act or omission by the University which would have affected Appellant's receipt of the change. Therefore, the appeal is denied.

