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DECISION



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

FILE: B-222005 **DATE:** February 25, 1986
MATTER OF: Project Engineering, Inc.

DIGEST:

A bidder's failure to acknowledge receipt of material amendment renders the bid nonresponsive; the fact that the bidder may not have received the amendment until the day after bid opening is irrelevant absent evidence that the failure to receive the amendment resulted from a deliberate attempt by the contracting agency to exclude the firm from competition.

Project Engineering, Inc. (PEI) protests the rejection of its bid as nonresponsive under invitation for bids (IFB) No. IFB-OARM-85-015-JC, issued by the U.S. Department of Labor (Labor). Labor rejected the bid because PEI failed to acknowledge receipt of an amendment which, according to the agency, affected both the price and the substance of the work required. PEI contends that it did not receive the amendment until the day after bid opening.


We dismiss the protest.

A bidder's failure to acknowledge a material amendment to an IFB generally renders the bid nonresponsive. C&M Machine Products, Inc., B-212830, Oct. 4, 1983, 83-2 C.P.D. ¶ 421. The fact that the bidder may not have received the amendment until after bid opening is not relevant unless the failure results from a conscious or deliberate effort by contracting officials to exclude the firm from competition. Rawlings Mechanical Corp., B-215741, July 24, 1984, 84-2 C.P.D. ¶ 107.

PEI does not deny that the amendment was material. Further, it does not suggest that it did not receive the amendment in a timely fashion because of a deliberate attempt to exclude it from consideration for award.

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Under these circumstances, we feel that PEI does not present a valid basis for protest. See 4 C.F.R. § 21.3(f) (1985). Therefore, the protest is dismissed.



Robert M. Strong

Deputy Associate General Counsel