

Court Upholds Bid Law Award.

TFT, Inc. v. Warning Systems, Inc., 731 So.2d 1238 (Ala.1999) involved the award of a contract subject to the Alabama Competitive Bid Law (CBL) to a bidder whose bid was not the lowest submitted. The invitation for bids (IFB) was for the purchase of a Tone Alert Radio (TAR) System consisting of three major items: the central-control equipment, the indoor-warning device (TAR receiver), and the operating/support system. While only the 12,000 TAR receivers needed for the system were to be purchased under the IFB, bidders were told that their prices for the additional items would be considered in the selection of the successful bidder for the TAR receivers. Bidders were also asked to present pricing information in the form of a matrix to allow the State to determine the pricing for the activities and equipment on an item-by-item basis.

TFT calculated its bid by dividing the total system costs by 12,000, yielding an installed receiver unit price of \$220, but it failed to provide the price matrix requested in the IFB. The bid was awarded to a bidder whose receiver unit price was lower than TFT's installed receiver unit bid price. In appealing that award, TFT contended that the successful bidder's price for the central-control equipment and operating support were higher than TFT's, resulting in a higher installed unit price. Therefore, TFT argued, it had submitted the lowest bid. The trial court found that TFT's bid was non-responsive and upheld the State's award.

After noting that the CBL does not require award to the lowest bidder, but rather to the lowest responsible bidder, the Alabama Supreme Court upheld the trial court's decision. In doing so, the Court reiterated the proposition that the CBL is for the benefit of the public, not for the benefit of unsuccessful bidders. The Court also affirmed that it would not disturb an agency's good faith determination that a bid is not responsible unless the determination was made arbitrarily or capriciously; constituted fraud or an abuse of discretion; was based upon a misconception of the law; was the result of improper influence; was made in violation of law; or was based upon ignorance through lack of inquiry. The Court also cited with approval the rule that courts will not interfere with honest exercise of discretion, even if erroneous. Thus, in the future, an unsuccessful bidder, even the low bidder in a purchase subject to the CBL, may have a difficult time convincing a court to overturn the decision of a state agency to award the contract to another bidder.