

**DECISION**



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

21398

FILE: B-186401

DATE: August 26, 1976

MATTER OF: Supreme Beef Processors, Inc.

98627

**DIGEST:**

Rejection of low offer under RFP was improper without conducting discussions with offeror who submitted offer on interchangeable basis ("If not low interchange Lot 206 with 204") and RFP contained no prohibition against such pricing. However, as contract has been fully performed, no corrective action is possible but GAO agrees with recommendation of procuring agency that future solicitations contain interchangeable price prohibition if found to be in Government's best interest.

Supreme Beef Processors, Inc. (Supreme), has protested the rejection of its offer under request for proposals (RFP) No. DSA13H-76-R-1445, issued by the Defense Personnel Support Center, Philadelphia, Pennsylvania.

The RFP was for differing quantities of beef for various installations around the country. Supreme submitted the following offer in response to the RFP for the lots under protest:

Lot

201	Ground	\$0.8389
202	Ground	0.8486
203	Ground	0.8456
204	Patties	0.8656
205	Patties	0.8785
206	Patties	0.8556

- If Not Low Interchange Lot 206 with 204
- If Not Low Interchange 201 with 202

Supreme's offer for lot 206 was not low and award was made to another firm. Lot 204 was awarded to another bidder and Supreme contends that its offer on lot 206 (\$0.8556) should have been considered for lot 204 where it would have been low and award made to Supreme.

B-186401

However, the contracting officer determined that Supreme's offer directing that the lot prices be interchanged constituted a revised offer which could lead to chaos in the evaluation process if all offerors submitted offers in a similar manner.

In its report to our Office on the protest, counsel for the Defense Supply Agency made the following comments regarding the procurement:

"We note that this was not a formally advertised procurement. Further, even though award could have been made without discussion (ASPR 3-805.1 (a)(iv)), the contracting officer did not have a proper basis for determining that Supreme's offer was not the most favorable initial proposal received. Therefore, we cannot concur with the contracting officer's determination that rejection of Supreme's offer was proper. However, the contract which resulted from the subject solicitation for fabricated steaks and roasts has been fully performed.

"We have advised DPSC that if it is determined that the Government's interest is best served by a prohibition against price interchanging, it would be appropriate to include such a restriction in future solicitations."

We agree with the above interpretation and find that Supreme's offer was improperly rejected for consideration of award for lot 204 without conducting discussions. However, as the contract has been performed by Foster Brothers, no corrective action is possible at this time.

Further, we concur with the recommendation that future procurements contain a specific prohibition against interchange of prices, if it is deemed to be in the Government's best interest to prohibit such offers.

  
Acting Comptroller General  
of the United States