

DECISION



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

PHO

FILE: B-192308

DATE: October 25, 1978

MATTER OF: Ikard Manufacturing Company

DIGEST:

1. Protest that agency should have accepted quotation submitted after date specified in PFQ for receipt of quotations is considered timely under section 20.2(b)(2) of GAO Bid Protest Procedures where there is dispute between protester and agency as to when protester was first aware of basis of protest and no objective evidence has been presented on matter.
2. Under GAO's limited review of protests of small purchase procurements, protest concerning procuring activity's failure to consider late quotation is denied absent evidence of fraud or intentional misconduct by procuring activity, or evidence that reasonable effort was not made to secure competition from representative number of responsible firms. Regulation concerning number of firms to be solicited was followed, three timely quotations were submitted, and optional form reserving Government right to consider late quotations was not used.

Ikard Manufacturing Company (Ikard) protests the rejection of its quotation in response to request for quotations (RFQ) No. 29611 issued by the United States Army Missile Materiel Readiness Command, Redstone Arsenal, Alabama, as a late quotation and the subsequent award of a contract to Romac Electronics, Inc. (Romac).

The RFQ was issued on April 11, 1978, and was received by Ikard on or about April 13, 1978. The RFQ indicated that quotes should be returned by April 27, 1978. The protester states that it orally submitted a quotation on May 8, 1978, with full knowledge that the

date indicated in the RFQ for receipt of quotations had passed. The protester states that the quotation was submitted late due to problems in obtaining quotes from vendors, and the protester argues that the quotation should have been accepted since "the same circumstances had transpired many times before" and late quotations had been accepted. Ikard also contends that, since award was not made until May 11, 1978, the quotation was submitted before award and was, therefore, timely. Ikard argues that award to it would have been in the best interests of the Government since its price was \$57.50 lower than Komac's price.

The Army argues that Ikard's protest is untimely under section 20.2(b)(2) of our Bid Protest Procedures, 4 C.F.R. § 20.2(b)(2) (1978), because Ikard was informed that its quotation would not be considered at the time it submitted the quote (May 8, 1978) and the protest was not filed in our Office until June 30, 1978. Ikard states that it was not told on May 8, 1978, that the quotation would not be considered. Ikard contends that it was first informed by the contracting officer on June 22, 1978, that the quotation had not been considered. Since there is a dispute between the Army and the protester as to when Ikard was first aware of the basis for protest and because no objective evidence on the matter has been presented, we consider the protest to have been filed in a timely manner. See Burroughs Corporation, 56 Comp. Gen. 142 (1976), 76-2 CPD 472.

Since the aggregate amount of supplies being procured was less than \$10,000, the procurement was conducted under the small purchase procedures set forth in section 3, part 6, of the Armed Services Procurement Regulation (ASPR) as mandated by ASPR § 3-203.2 (1976 ed.).

The small purchase procedure is designed to minimize administrative costs which might otherwise equal or exceed the cost of acquiring relatively inexpensive items. A procurement founded on a contracting officer's good-faith finding that the proposed award is to the best advantage of the Government, price and other factors considered, and that the price is reasonable ordinarily is sufficient. Although the contracting officer is required to solicit quotations from a reasonable number

of potential sources, this generally is done by oral solicitation. ASPR § 3-604.2(a). Moreover, we have recognized that the Government need not award the small purchase to the firm offering the lowest quotation. JCL Services, Inc., B-182994, June 16, 1975, 75-1 CPD 364. The regulations imply that the contracting officer may judge the advantages and disadvantages of particular products, as related to price. ASPR § 3-604.2. The small purchase procedure gives the contracting officer broad discretion to determine how the needs of the Government can best be met.

In Tagg Associates, B-191677, July 27, 1978, 78-2 CPD 76, we held that, since the small purchase procedure permits purchases to be made without the need to maximize competition, no useful purpose would be served by our consideration of protests concerning alleged specification improprieties in small purchase procurements. We further held that, generally, our review of small purchase procurements is limited to cases of fraud or intentional misconduct on the part of the procuring activity, or instances where it appears that the procuring activity has not made a reasonable effort to secure price quotations and related information from a representative number of responsible firms as anticipated by ASPR § 3-600 et seq.

The date specified for submission of quotations was clearly indicated on the face of the RFQ and Ikard was fully aware of the deadline. Even though late quotations may have been accepted in prior procurements, the Army points out that those quotations were solicited by the use of DD Form 1155r which expressly reserved the Government's right to consider late quotations should such action be in the interest of the Government. The present procurement was effected using DD Form 1155 and did not reserve to the Government the right to consider late quotations. Use of either form (DD Form 1155 or 1155r) is authorized by ASPR § 3-608 (1976 ed.), even though ASPR § 3-604.2(a) expresses a general preference for oral solicitation of quotations. ASPR § 3-604.2(a) also indicates that as a general rule, solicitation shall be limited to three suppliers. In the present procurement, quotations were requested from four firms and three firms submitted quotations in a timely manner.

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After examination of the record, we find no evidence of fraud or intentional misconduct by the procuring activity. Moreover, it appears that a reasonable effort was made to secure quotations from a reasonable number of qualified suppliers as required by ASPR § 3-604.2(a) and that the procurement was conducted in good faith by the contracting officer.

Accordingly, the protest is denied.

Deputy


Comptroller General
of the United States