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DECISION



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

FILE: B-203717

DATE: August 28, 1981

MATTER OF: The Kuljian Corporation

DIGEST:

Protester has not met its burden of affirmatively proving that the closing date for the receipt of proposals was unreasonable where evidence presented fails to show that the closing date was arbitrarily or capriciously selected or that adequate competition was not obtained.

The Kuljian Corporation (Kuljian) protests any award under request for proposal (RFP) No. 81-20-006R issued by the Argonne National Laboratory, Department of Energy (DOE), Argonne, Illinois.

The RFP solicited proposals to conduct a study to determine the most effective way for a community to use all its potential energy sources to meet its energy needs. Kuljian argues that DOE did not allow sufficient time for the preparation of proposals and that DOE's refusal to grant Kuljian's request for an extension of the preparation period was unjustified. However, we find no basis to question DOE's conduct of this procurement.

The procurement was synopsisized in the Commerce Business Daily on May 28, 1981. This notice warned potential offerors that they must express an interest in the procurement no later than June 3, 1981. Kuljian requested a copy of the RFP which it did not receive until June 10, 1981. The RFP established June 19, 1981, as the closing date for the receipt of initial proposals. On June 17, 1981, Kuljian telephoned DOE to request an extension of the closing date so that it could have more time to prepare its proposal. DOE, however, denied this request, and Kuljian immediately protested this decision to our Office. Meanwhile, from the 144 solicitations it had mailed out, DOE received nine responses by the June 19 closing date.

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According to Kuljian, the 10 days it had to prepare a proposal after its receipt of the RFP was clearly inadequate in view of the many technical disciplines and types of energy sources which had to be considered in the preparation of a proposal. Kuljian finds support for this contention in the fact that, out of the 144 solicitation packages mailed out, DOE only received nine proposals.

We have held that the date set for the receipt of proposals is a matter of judgment vested in the contracting agency which our Office will not question unless the record shows that it was arbitrarily or capriciously selected or that it unduly restricts competition. John J. Moss, B-201753, March 31, 1981, 81-1 CPD 242. Our Office, therefore, is concerned with whether all offerors were treated equally and adequate competition was obtained, not with whether every possible firm had an opportunity to compete. See, e.g., Price Waterhouse & Co., B-186779, November 15, 1976, 76-2 CPD 412.

Under the facts presented, we do not believe that we can conclude that DOE arbitrarily or capriciously selected the June 19 closing date or that this date unduly restricted competition. We note that there were 22 calendar days after the Commerce Business Daily notice for the preparation of proposals. Also, nine firms were able to submit proposals in a timely manner. Further, only Kuljian complained that the time allotted was too short. We also note that Kuljian waited 7 days after it received the RFP before it requested an extension--only 2 days before the closing date.

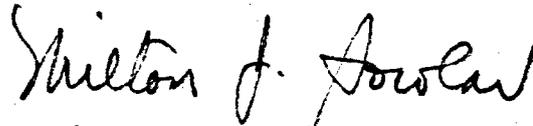
Moreover, DOE has argued that the scope of work for this research type procurement was definitive so that preparation of proposals involved essentially a determination of the amount and quality of labor needed to perform the work and, in DOE's opinion, adequate time was allowed for proposal preparation.

It is well established that the protester has the burden of affirmatively proving its case. John J. Moss, supra. Kuljian has questioned the reasonableness of DOE's closing date, but it has not presented any

support for this conclusion other than its own inability or unwillingness to meet the deadline. On the other hand, the record indicates that all offerors were treated equally and, in view of the nine proposals received, that adequate competition was obtained. DOE also maintains that the prices received are reasonable. We find no significance to the fact that DOE received only nine proposals for the 144 solicitation packages it mailed out since the receipt of nine proposals clearly indicates the presence of adequate competition.

We conclude, therefore, that Kuljian has not met its burden of affirmatively proving that the June 19 closing date was unreasonable.

Protest denied.



Acting Comptroller General
of the United States