



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Burrell Maier
File: B-232086; B-232087
Date: August 2, 1988

DIGEST

1. A protest filed with a contracting agency more than 6 weeks after the basis for protest is known is untimely and will not be considered on the merits.
2. Award made on the basis of the total price quoted is not objectionable where request for quotations did not request firms to show breakdown of prices.
3. The General Accounting Office does not conduct investigations to establish the validity of a protester's allegations.
4. Protest of possible conflict of interest is without merit where protester does not allege any bias or preferential treatment towards awardee.
5. Whether contractor performs in accordance with the contract terms is a matter of contract administration which General Accounting Office does not review.

DECISION

Burrell Maier protests the rejection of his quotation under request for quotations (RFQ) No. 8800-8-0016 issued by the National Park Service (NPS) on March 3, 1988. Mr. Maier also protests the award of a contract to Kim Wood under RFQ No. 8800-8-0017 issued by NPS for the rental of horse teams and driver for the Wawona Pioneer History Center, Yosemite National Park.

We dismiss the protests.

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Subsequent to the issuance of RFQ 0016 and after some negotiations allegedly occurred, the RFQ was withdrawn and a new RFQ (0017) with a modified work statement was issued on March 31. Maier did not protest the withdrawal of RFQ 0016 until he sent a letter of protest dated May 16, 1988 to the agency. Our bid protest regulations require that a protest such as this one be filed not later than 10 days after the basis of protest is known or should have been known if it is to be considered on the merits by this Office. 4 C.F.R. § 21.2 (1988). Clearly, the protester had notice of the withdrawal of RFQ 0016 when RFQ 0017 was issued in its place on March 31. Since the protester participated in RFQ 0017 and therefore had actual knowledge of it, the protest filed more than 6 weeks later is untimely and will not be considered on the merits.

Two quotations were submitted under RFQ 0017 which was issued under the small purchase procedures of Part 13 of the Federal Acquisition Regulation. Mr. Maier protests that the NPS considered only the total dollar amount in making the award to Mr. Wood. Mr. Maier believes only his quotation is acceptable, because his, and not Mr. Wood's, contained a breakdown of costs per item in the statement of work. The NPS states that no cost information was requested, and the basis for award was the responsive lowest total price submitted by a responsible firm. Since a contract was awarded for the entire effort specified in the RFQ, and because there was no requirement that each item of work be separately quoted, the agency properly awarded the contract to Mr. Wood, the low responsible quoter.

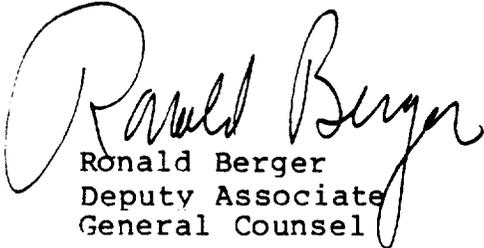
Mr. Maier asks for a full investigation of the award. Our Office does not conduct investigations to establish the validity of a protester's assertion; the protester has the burden of proving its case. REL, B-228155, Jan. 13, 1988, 88-1 CPD ¶ 25.

Mr. Maier also alleges a conflict of interest because Mr. Wood used as a reference an employee of a bank at which the wife of a NPS employee involved in this procurement is also employed. Mr. Maier has not, however, alleged any bias or preferential treatment towards Mr. Wood as a result of the alleged conflict of interest. Moreover, the contracting officer denies such a conflict of interest exists because both bank employees are salaried and can therefore derive no financial gain from acting as a reference or from the award. We agree. Mere inferences or suspicion of actual or potential conflicts of interest do not afford a basis for finding an agency's determination to the contrary unreasonable; there must be hard facts establishing the conflict of interest, not just a remote connection. The protest on

this issue is therefore without merit. See Chemonics International, B-222793, Aug. 6, 1986, 86-1 CPD ¶ 161.

Finally, the protester alleges that the contractor has failed to perform in accordance with the contract, and requests that the NPS hold the contractor in default and award the contract to the protester. Whether Mr. Wood performs in accordance with the contract terms is a matter of contract administration, which this Office does not review. Motorola Communications and Electronics, Inc., B-225613, Jan. 27, 1987, 87-1 CPD ¶ 91.

The protest over RFQ 0016 is dismissed as untimely filed. The protest over the award under RFQ 0017 is dismissed because on its face it does not state a valid basis for protest. 4 C.F.R. § 21.3(m).


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