



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: White Water Associates, Inc.

File: B-240274; B-240275

Date: October 15, 1990

Dean B. Premo for the protester.
Justin P. Patterson, Esq., and Alton E. Woods, Esq.,
Department of the Interior, for the agency.
Scott H. Riback, Esq., and Andrew T. Pogany, Esq., Office of
the General Counsel, GAO, participated in the preparation of
the decision.

DIGEST

Protests that agency improperly canceled two requests for quotations instead of awarding contracts to the firm are dismissed as untimely where protester did not file protests until more than 10 days after being apprised of cancellations.

DECISION

White Water Associates, Inc. protests the cancellation of request for quotations (RFQ) Nos. RE6320-0-0008 and RE6320-0-0012, issued by the National Park Service for services in connection with the preparation of an environmental impact statement at Pictured Rocks National Lakeshore, Michigan. White Water also protests the issuance of request for proposals (RFP) Nos. RFP-MWR-0-0009 and RFP-MWR-0-0010 for the same requirements on an unrestricted basis. We dismiss the protests.

The canceled RFQs were two out of a group of five RFQs issued for the services of one or more firms to conduct surveys of various flora and fauna in the Pictured Rocks National Lakeshore area in contemplation of the preparation of an environmental impact statement. The two RFQs were issued as small business-small purchase set-asides in accordance with Federal Acquisition Regulation (FAR) § 13.105 (FAC 84-28). In response to the two RFQs, which contemplated the evaluation of price only, the agency received two quotations each, one

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from the protester and one from different large business entities. After receipt and evaluation of the quotations, the agency erroneously placed orders with each of the large business entities which had quoted a price substantially below the prices quoted by the protester under the RFQs. Subsequently, the agency realized that the awards had been made to large business entities and, accordingly, canceled the orders. The agency then determined to resolicit its requirements using RFPs calling for the evaluation of technical proposals as well as an evaluation of price. It orally informed the protester of its decision to cancel the earlier RFQs on April 4, 1990, and informed the protester in writing of the cancellations on April 20.^{1/} The agency issued the RFPs on an unrestricted basis on June 20. Both RFPs specify a closing date for the receipt of initial proposals of July 20. White Water's protests were filed with our Office on July 2.

White Water's protests regarding the agency's cancellation of the initial RFQs (rather than awarding a contract to the firm pursuant to those RFQs) are untimely. As relevant here, protests must be filed with our Office not later than 10 days after the basis of protest is known. See 4 C.F.R. § 21.2(a)(2) (1990). With respect to the cancellation of the RFQs, the record shows that White Water was aware of the agency's actions regarding the cancellations and the reasons for not awarding contracts to the firm no later than its receipt of the April 20th letter.^{2/} Consequently, its protests regarding those cancellations, which were filed on

^{1/} In its April 20 letter, the agency stated that the initial RFQs had failed to produce adequate competition (only one quote each from a small business). The agency also stated that the total of the 5 quotes submitted by the protester was double the amount contemplated by the agency for the entire program.

^{2/} For purposes of timeliness, we generally assume delivery of a letter within one calendar week from its mailing. See Signal Corp.--Recon., B-238507.2, April 25, 1990, 90-1 CPD ¶ 424.

July 2, more than 2 months after its receipt of the letter, are untimely.3/

The protests are dismissed.

Michael R. Golden

Michael R. Golden
Assistant General Counsel

3/ White Water also argues that the RFPs have been improperly issued on an unrestricted basis. FAR § 13.105(d)(2) permits the contracting officer to purchase on an unrestricted basis where there is no reasonable expectation of obtaining quotes from at least two small business concerns. Here, only one small business quote from the protester was obtained under each of the two previous RFQs. Thus, the protester does not state a valid basis of protest. See 4 C.F.R. § 21.3(m).