



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: QuanTech, Inc.

File: B-265869.2

Date: March 20, 1996

Alan M. Grayson, Esq., Victor Kubli, Esq., and Paula K. Goldman, Esq., for the protester.

Jerry A. Walz, Esq., Department of Commerce, for the agency.

Charles W. Morrow, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Procuring agency reasonably reopened the competition to all offerors, including an offeror who submitted a late proposal in response to the original closing date for receipt of proposals, in response to a General Accounting Office decision sustaining a protest and recommending an extension of the original proposal closing date.

DECISION

QuanTech, Inc. protests the determination by the Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), to reopen the competition under request for proposals (RFP) No. 50-DGNF-5-00079, issued to obtain a contractor to conduct the agency's 1996 "National Marine Fishery Statistics Survey."

We deny the protest.

As issued, the RFP provided that certain necessary proposal preparation material would be available upon request. Although Marine Research Specialists (MRS) timely requested this information, NOAA did not furnish it to MRS until shortly before the scheduled closing date; NOAA, however, did timely furnish the information to other potential offerors. Also, NOAA denied MRS's request for an extension of the closing date. In Marine Research Specialists, B-265869, Jan. 2, 1996, 96-1 CPD ¶ 1, we sustained MRS's protest of the agency's failure to timely provide the information, because we found that MRS and the other offerors were treated unequally and that the agency had failed to obtain full and open competition by refusing to extend the RFP's closing date. We recommended that NOAA establish a new closing date and allow MRS to submit a proposal.

In response to our decision and recommendation, NOAA decided to reopen the competition to all offerors, including MRS. The RFP was amended to establish a new closing date of February 12, 1996, for the receipt of proposals. On that date, NOAA received proposals from the firms, including QuanTech, that initially had submitted timely proposals by the original closing date, as well as from a firm that had not previously submitted a proposal and a firm whose proposal had earlier been rejected as late.

QuanTech objects to allowing other offerors, besides MRS, to submit proposals by the new closing date for receipt of proposals, arguing that our protest decision only recommended allowing MRS to submit a proposal. In QuanTech's view, our recommendation was intended to cure an impropriety that affected only MRS, and not other offerors. QuanTech complains that one of the new offers is from a firm that was previously determined to be late under the original closing date, and that consideration of this offer unfairly permits the firm to circumvent the RFP's late proposal clause.

The details of implementing our protest recommendations for corrective action are within the sound discretion and judgment of the contracting agency. OMNI Int'l Distribs., Inc., 67 Comp. Gen. 123 (1987), 87-2 CPD ¶ 563. We will not question an agency's ultimate manner of compliance, so long as it remedies the procurement impropriety that was the basis for the decision's recommendation. Serv-Air, Inc., B-258243.4, Mar. 3, 1995, 95-1 CPD ¶ 125.

The procurement impropriety that we recommended NOAA remedy included the agency's unreasonable failure to extend the closing date for the initial competition; NOAA's setting of a new closing date cured that impropriety consistent with our protest recommendation. Moreover, the Competition in Contracting Act of 1984, 41 U.S.C. § 253(a)(1)(A) (1994), directs contracting agencies to obtain full and open competition, and the agency's decision to allow other firms to join the competition by the new closing date was consistent with that mandate as well. Also, there is no evidence that the protester, or any other offeror, was prejudiced by allowing firms to compete; rather, all offerors will have an equal opportunity to compete for award.

To the extent that QuanTech seeks to limit the competition solely to gain the benefit of a reduced competition, we note that the objective of our Office is to insure full and open competition for government contracts. Accordingly, our Office generally will not review a protest that has the explicit or implicit purpose of

reducing competition so that a protester may become the beneficiary of a more restrictive procurement. See Ingersoll-Rand Co., B-224706; B-224849, Dec. 22, 1986, 86-2 CPD ¶ 701.

The protest is denied.

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