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**DECISION**



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

FILE: B-197553

DATE: June 18, 1980

MATTER OF: Northwest Forest Workers Association

DL604818

**DIGEST:**

1. Since EPA is responsible for registration and classification for use of herbicides, questions of herbicide toxicity and appropriateness for use in conjunction with Forest Service tree planting contract is not for GAO consideration.
2. Since solicitation contained only information known prior to opening concerning herbicide spraying before planting, no objection is made to solicitation's general statement that spraying might be done. However, recommendation is made that agency investigate whether planting costs are significantly affected by use of herbicide prior to future planting procurements. If costs are so affected, in particular case solicitation should advise potential bidders of reasonably available pertinent information.

The Northwest Forest Workers Association (Association) protests the contract award for tree planting under United States Forest Service (Forest Service), Willamette National Forest, invitation for bids No. R6-18A-80-10 on bases stemming from the invitation provision that a portion of the acreage to be planted "may be sprayed for grass and beargrass prior to planting." DL60376

The Association protests the contracting agency's refusal to postpone bid opening to clarify that provision by amendment to permit the potential bidders it represents to compute accurate bid prices by providing information on the herbicide to be used and the spraying timetable. This information is, allegedly, determinative of costs that would be included in bid prices to reflect necessary safety measures to protect planters. It is contended that competition

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was restricted by the insufficient spraying information in the invitation. Finally, doubts are raised as to whether spraying is necessary due to the possible deleterious health effects.

The contracting agency argues that a delay in opening was not required to amend the solicitation since the Association did not protest until 4 hours prior to opening. By then, eight responses had been received to assure sufficient competition. Further, at the time of bid opening, it was not known if the areas would be sprayed prior to planting. After opening, a determination was made to spray the area with atrazine--a slightly toxic herbicide having the same toxicity as aspirin or table salt. Presumably, the Forest Service is contending that the use of atrazine would have no or an insignificant effect on performance costs.

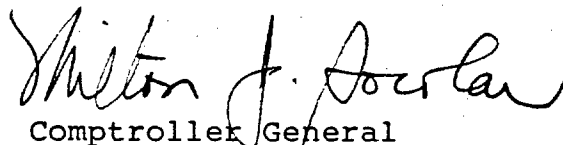
We first note that the Environmental Protection Agency (EPA) is responsible for the registration and classification for use of herbicides. See 40 C.F.R. § 162.2(b)(c) (1979). Accordingly, questions concerning the toxicity of herbicides and the appropriateness of their use under these circumstances are for resolution by the EPA and not our Office.

As to the other issues, the protester has not disputed the Forest Service position that, in this case, whether spraying was to be done was not known by the bid opening time. Therefore, as the above-quoted invitation statement concerning the possibility of spraying was the only information known prior to opening, we have no basis to object to its use.

However, the record does not indicate clearly that relevant spraying information cannot be developed for use in solicitations, particularly with respect to the herbicide to be used. Accordingly, we recommend that the Forest Service investigate whether planting costs are significantly affected by the use of appropriate herbicides prior to future planting procurements. If planting costs are determined to be affected in a particular case, we recommend that the solicitation

contain whatever pertinent information is reasonably available to allow potential bidders to formulate bids as accurately as practicable.

Acting

  
Comptroller General  
of the United States