



**Comptroller General  
of the United States**

Washington, D.C. 20548

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## Decision

**Matter of:** General Projection Systems

**File:** B-241129

**Date:** December 10, 1990

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Drake W. Wayson for the protester.

Millard F. Pippin, Department of the Air Force, for the agency.

Catherine M. Evans and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

Protest that agency improperly reopened negotiations and requested best and final offers after announcing that protester was apparent successful offeror is denied where prices were not disclosed, and other offerors did not gain advantage from knowing identity of apparent successful offeror.

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### DECISION

General Projection Systems (GPS), the apparent successful offeror under request for proposals (RFP) No. F04699-90-R-0055, issued by the Department of the Air Force for installation of projection systems in conference rooms at McClellan Air Force Base, California, protests the agency's decision to reopen negotiations and request new best and final offers (BAFO).

We deny the protest.

The RFP, which was 100 percent set aside for small business, contemplated award of a firm, fixed-price contract to the responsible offeror submitting the lowest-priced, technically acceptable proposal. The Air Force received six proposals by the amended May 31, 1990, due date, and GPS was subsequently selected for award. As required by the Federal Acquisition Regulation (FAR), the contracting officer notified the unsuccessful offerors on July 12 of GPS' selection in order to afford them the opportunity to protest GPS' small business size status. Upon learning that GPS was the apparent successful offeror, another offeror, Carrigan Enterprises, filed an agency-level protest alleging that GPS would not be able to meet certain RFP requirements since it was not present

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at an April 10 site visit, and that Carrigan had not been permitted to submit questions after April 19--the deadline announced at the April 10 site visit--the answers to which might have enabled Carrigan to lower its price.

Upon review of Carrigan's protest, the Air Force learned that Carrigan had not been informed of a second site visit, held on April 26, at which offerors were informed that they could submit further questions in writing. The Air Force determined that Carrigan had been denied the opportunity to have any further questions addressed, and concluded that it was required to reopen the competition to assure fairness. On September 14, the Air Force issued an amendment to the solicitation requesting BAFOs from all offerors, whereupon GPS filed this protest in our Office.

GPS contends that reopening negotiations and requesting BAFOs prejudiced GPS' competitive position in the procurement because it gave the other offerors the opportunity to lower their prices with the knowledge that GPS was the low offeror. Indeed, GPS notes, since filing its protest, the Air Force has evaluated the BAFOs and has determined that Carrigan is now the apparent successful offeror. GPS argues that Carrigan's agency-level protest was without merit and did not warrant the corrective action taken by the Air Force. The Air Force responds that because all offerors had not been treated equally, it was required to reopen the competition to preserve the integrity of the procurement system. The Air Force also argues that reopening did not cause GPS any competitive harm, since its price was not exposed.

In general, there is nothing improper in an agency's requesting BAFOs in a negotiated procurement; in fact, the usual sequence of events in a negotiated procurement includes at least one request for revised offers. Braswell Shipyards, Inc., B-233287; B-233288, Jan. 3, 1989, 89-1 CPD ¶ 3. Award based on initial proposals is less frequent and, by law, is proper only in limited circumstances. See 10 U.S.C. § 2305(b)(4) (1988). Even where, as here, there is information available, at the time the competition is reopened, that a certain firm was in line for award based on initial proposals, the request for BAFOs does not give rise to an improper auction absent a price leak or some other disclosure. Braswell Shipyards, Inc., B-233287; B-233288, supra. The record contains no evidence of any disclosure of GPS' price, and none has been alleged. To the extent that other offerors arguably had some advantage from knowing that GPS was the low offeror, GPS had a similar arguable advantage from knowing that it was the low offeror going into the BAFO stage. Under these circumstances, the BAFO request resulted in no competitive prejudice to any offeror, and we think the Air Force's

decision to reopen the competition to avoid the possibility that Carrigan was prejudiced by being excluded from the second site visit therefore was unobjectionable.

The protest is denied.

*Ronald Beyn*  
for James F. Hinchman  
General Counsel