

Weldon
148459



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: A & B Trash Service
File: B-250322
Date: January 22, 1993

Astor V. Bolden for the protester,
Timothy A. Beyland, Department of the Air Force, for the
agency.
Stephanie Weldon, Esq., and Christine S. Melody, Esq.,
Office of the General Counsel, GAO, participated in the
preparation of the decision.

DIGEST

Where request for quotations issued under small purchase
procedures did not contain a late quotations provision and
where substantial activity in evaluating proposals had not
occurred prior to receipt of a later quotation, contracting
agency acted properly in seeking and accepting the later
quotation.

DECISION

A & B Trash Service protests the award of a contract to any
other firm under request for quotations (RFQ) No. F31610-93-
Q-0062, issued by the Department of the Air Force for
garbage and refuse collection at Fort Fisher Recreational
Area, Kure Beach, North Carolina.

We deny the protest.

The RFQ was issued on July 31, 1992, under small purchase
procedures, for performance commencing October 1, 1992.
Firms were asked to submit quotes by August 26; however, the
RFQ did not contain a late quotations clause expressly
providing that quotations received after that date would not
be considered.

The protester submitted a quote of \$9,675 on August 20. On
August 27, Waste Industries, Inc. submitted an oral quote
of \$16,926. No quotation was received, however, from
the incumbent--Waste Management of Wilmington--whose
current contract in the amount of \$9,504 would expire on
September 30. On September 1, the contracting officer
contacted the incumbent to inquire whether it intended to

submit a quotation. A company official said that it did intend to submit a quotation but had not received any solicitation documents. The contracting officer sent a copy of the RFQ by facsimile to Waste Management with a deadline of September 3 to respond. On September 3, the contracting officer, not having received a quotation from Waste Management, telephoned the firm to inquire as to its intent. She was told that the firm had not received any documentation. Again, the contracting officer sent a copy of the RFQ by facsimile to Waste Management, indicating a deadline of 4:30 p.m. that day. Waste Management then submitted a quotation of \$9,210 on September 3. On September 4, all quoters were notified of the low quote from Waste Management as well as the quotes received from the other two parties, including the protester.

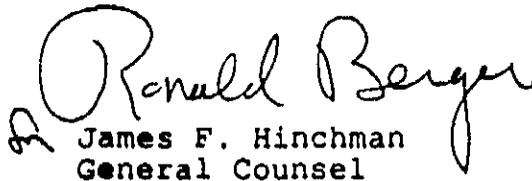
Although A & B contends that the contracting officer should not have solicited a quotation from the incumbent, we find that her action was proper. When conducting a small purchase procurement, an agency is required to reduce administrative costs by using simplified competitive procedures designed to obtain competition to the maximum extent practicable. Federal Acquisition Regulation (FAR) § 13.106(b)(1). Generally, solicitation of three sources is deemed sufficient. FAR § 13.106(b)(5); J. Sledge Janitorial Serv., 70 Comp. Gen. 307 (1991), 91-1 CPD ¶ 225. Under the small purchase procedures, agencies generally may seek and consider revisions to a quotation any time prior to the award. See DataVault Corp., B-248664, Sept. 10, 1992, 92-2 CPD ¶ 166. Moreover, when, as here, the RFQ does not contain a late quotations clause, but merely requests quotations by a certain date, that date is not considered a firm date for the receipt of quotations. In such a case, the agency is not precluded from considering a quotation received after that date provided that no substantial activity has transpired in evaluating proposals, and the other offerors would not be prejudiced. Instruments & Controls Serv. Co., 65 Comp. Gen. 685 (1986), 86-2 CPD ¶ 16.

The protester argues that it was prejudiced. It argues that once its price was revealed within the agency, the contracting officer should not have sought a quotation from the incumbent. The protester states that even if the contracting officer did not reveal its price to the incumbent, "there was a significant risk of disclosure and resulting unfairness" to A & B. In the protester's view, the contracting officer's action was inconsistent with preserving the competitive system.

We see no basis for such a conclusion. When the contracting officer solicited the incumbent's quote, no award had been made and no substantial activity had transpired in the evaluation. Compare Adrian Supply Co., 68 Comp. Gen. 575 (1989), 89-2 CPD ¶ 99 (substantial activity had occurred where buyer had already begun the award process by the time the quotation was received). She had only received two quotes, and there was a large disparity in price between the two quotes. Due to the disparity in the quotes and the fact that no quote had been received from the incumbent, she decided to solicit a quote from the incumbent. As the contracting officer states, an incumbent generally should be solicited for a procurement. See FAR § 14.205-4(6).

As stated above, under the small purchase procedures, a contracting officer may consider late quotations and seek revisions to quotations at any time prior to award. What the contracting officer did here is clearly consistent with the competitive rules that may be used in small purchase procurements. DataVault Corp., *supra*. Absent any evidence of an improper public disclosure of the protester's price, we do not find that the protester was prejudiced by the contracting officer's action.

The protest is denied.


James F. Hinchman
General Counsel