

DECISION

DIGEST - L - Cont
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

79-2 CPD 296

708

FILE: B-195014

DATE: October 26, 1979

MATTER OF: PSI-TRAN Corporation

DIGEST:

In negotiating small purchase, contracting officer has broad discretion to determine manner of obtaining quotations. Protester's complaint that evaluation of its offer did not correspond to evaluation criteria and required labor categories is not for consideration unless protester was intentionally misled by contracting officials or use of oral solicitation was improper.

PSI-TRAN Corporation protests the award of a data processing support contract (PO 931-526-434-FRA), by the Federal Railroad Administration (FRA), Department of Transportation, to Chesapeake Computer Consultants, Inc. (Chesapeake). PSI-TRAN contends that the contract should be recompeted because it was incorrectly informed of the evaluation criteria for award and of the labor categories required to perform the work. For the reasons that follow, PSI-TRAN's protest is denied.

This procurement was negotiated as a small purchase under Federal Procurement Regulations (FPR) subpart 1-3.6 (1964 ed.), as amended. The procurement was conducted orally, although a written statement of work was provided.

PSI-TRAN says that it was told that selection would be based totally on labor rates submitted for the work, because each offeror was considered technically acceptable. However, PSI-TRAN complains the technical content of the proposals was examined during the selection process. The protester also contends that it was led to believe that only two labor rates were requested -- one rate for the programming requirement and one rate for the data entry function.

FRA says that its selection criteria were explicitly communicated to PSI-TRAN in the negotiations, that offerors were allowed to propose skill and labor rates they considered appropriate, and that the number of labor rates offerors could submit was not limited.

In a small purchase procurement, a contracting officer enjoys broad discretion to determine how to meet the Government's needs, is required only to assure that "reasonable" competition is obtained, and is accorded broad discretion to determine the manner of obtaining quotations. See FPR subpart 1-3.603. Use of oral solicitations is permitted. FPR § 1-3.603-2(b)(1).

Here, there appear to have been misunderstandings between PSI-TRAN and FRA. While unfortunate, misunderstandings are likely to result when quotations are solicited orally. That a misunderstanding arises does not in our view establish a basis for protest unless the protester can allege and prove that it was intentionally misled by contracting personnel or that use of an oral solicitation was unreasonable in the circumstances.

Therefore, the protest is denied.



For The Comptroller General
of the United States