



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: John Blood

File: B-274624

Date: December 19, 1996

John Blood for the protester.

Allen W. Smith, Department of Agriculture, for the agency.

Linda C. Glass, Esq., and Paul I. Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Although request for quotations issued under simplified acquisition procedures did not contain a late quotations provision, agency decision to reject protester's late quotation was unobjectionable where award at a reasonable price had been made prior to receipt of the late quotation.

DECISION

John Blood protests the issuance of a purchase order to Arrowhead Starr Company under request for quotations (RFQ) No. 11R2-96-24, issued by the Department of Agriculture, Forest Service for the thinning of 198 acres in Medicine Bow/Routt National Forest, Yampa Ranger District. The protester contends that the agency improperly issued the purchase order prior to receipt of its quote.

We deny the protest.

The RFQ was issued by the Forest Service on August 21, 1996, as a small business set-aside under simplified acquisition procedures and was sent to 10 companies, including the protester. The RFQ called for quotations to be furnished by the close of business on September 3. The contracting officer received two quotes by that time. On September 3, the protester called the agency and told an agency purchasing agent that he had mailed a quotation and that he had also given an oral price quotation to an employee of the Yampa Ranger District. Later that same day, the contracting officer placed a phone call to the protester to obtain a quote, but the phone was not answered. On the morning of September 4, the contracting officer still had not received a quote from the protester, and attempted to telephone the protester several times, each time receiving no answer. He also checked all of the unprocessed mail as well as the facsimile machine and found no quotation or

correspondence from the protester. Lastly, the contracting officer contacted the employee to whom the protester allegedly had provided an oral quote and was advised that a price quote had not been received from the protester.

On September 4 at 9:00 a.m., after concluding that Arrowhead's price was fair and reasonable and within the government's estimate, and concerned that the company planned to leave the area that day if it did not receive this purchase order, the contracting officer issued a purchase order to Arrowhead. Arrowhead commenced performance at that time. At 2:30 p.m. on September 4, the contracting officer received a quotation from the protester that was lower than Arrowhead's, but concluded that the late quotation did not warrant disturbing the award. On September 10, the protester was advised that its quotation was received after the award decision had been made. The protester filed this protest with our Office on September 12, and the contracting officer was notified on September 13. On September 16, the contracting officer contacted the contracting officer's representative about the protest and the possible suspension of work and was informed that Arrowhead had completed the work.

Simplified acquisition procedures are excepted under the Federal Acquisition Streamlining Act of 1994 (FASA) from the general requirement that agencies obtain full and open competition through the use of competitive procedures when conducting procurements. 41 U.S.C. §§ 253(g)(4), 427(c) (1994). These simplified procedures are designed to promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors. In implementing the statutory requirement, the Federal Acquisition Regulation (FAR) requires contracting officers, when using simplified acquisition procedures, to solicit quotations from a reasonable number of qualified sources to promote competition to the maximum extent practicable and ensure that the purchase is advantageous to the government, based, as appropriate, on either price alone or price and other factors. FAR § 13.106-2(a)(1) (FAC 90-40); Bosco Contracting, Inc., B-270366, Mar. 4, 1996, 96-1 CPD ¶ 140.

Under simplified acquisition procedures, agencies generally may seek and consider revisions to a quotation any time prior to award. See DataVault Corp., B-248664, Sept. 10, 1992, 92-2 CPD ¶ 166. Where, as here, an RFQ does not contain a late quotations provision--but merely requests quotations by a certain date--that date is not considered to be a firm closing deadline; consequently, so long as the award process has not begun, an agency is not precluded from considering a quotation received after that date. ATF Constr. Co., Inc., B-260829, July 18, 1995, 95-2 CPD ¶ 29. Here, however, as explained above, the Forest Service issued the purchase order to Arrowhead, which then commenced performance, prior to the receipt of the protester's quote. Because a purchase order had been issued prior to receipt of the protester's quote, the agency's decision not to consider the protester's quote is unobjectionable. Comspace Corp., B-274037, Nov. 14, 1996, 96-2 CPD ¶ 186.

The protester also contends that preferential treatment was afforded Arrowhead because of its participation in the Small Business Administration's section 8(a) program. We will not sustain a protest against alleged bias or other wrongdoing by a contracting agency based upon speculation only. Advanced Seal Technology, Inc., B-239191, July 24, 1990, 90-2 CPD ¶ 73. The protester has not provided, and the record does not otherwise contain, any probative evidence to show bias in favor of the awardee. As noted, the RFQ was sent to 10 contractors and two quotes were received. Arrowhead submitted the lower price, which was below the government's estimate and considered reasonable. Moreover, the contracting officer made numerous attempts to obtain a quote from the protester prior to issuing the purchase order to Arrowhead.¹ There is simply nothing in this record that suggests preferential treatment of Arrowhead.

The protest is denied.

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¹The protester in its comments to the agency report alleges that there were several procedural deficiencies during the conduct of this procurement. In support of these allegations, however, the protester cites various regulatory provisions which are inapplicable to simplified acquisitions.