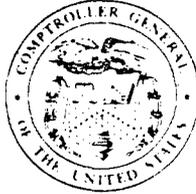


DECISION



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

51060

FILE: B-184052

DATE: September 26, 1975

MATTER OF: National Small Business Association

97406

DIGEST:

General guidelines for the time which should be allowed for the preparation of proposals may be derived from FPR §1-2.202-1(c), which permits less than the usual minimum bidding time "in special circumstances or where the urgency of the need for the supplies or services does not permit such delay." In view of limited time available for performance of contract, and the presence of competition, contracting officer's refusal to extend 13-day period for receipt of proposals was proper.

The National Small Business Association (NSBA), on behalf of one of its members, has protested the Department of Housing and Urban Development's (HUD's) refusal to extend the due date for receipt of proposals under RFP H-2336. The RFP was synopsisized in the Commerce Business Daily on May 8, 1975 and the closing date for submission of proposals was May 22, 1975. On May 19, 1975, NSBA contacted the contracting officer and requested that the due date be extended to May 31, 1975. On May 20 NSBA was advised that an extension could not be granted because the contract had to be awarded by June 5 in order for the work to be completed by October 6, 1975. A protest to this Office followed.

The procuring agency has explained the origin of the RFP as follows:

"The Department of Housing and Urban Development is required under Title VIII of the 1970 Housing and Urban Development Act, Section 703, to prepare a biennial report on significant problems facing the United States as a result of urban growth trends and developments. The Domestic Council, charged by the President on February 13, 1975 with the coordination of policy options in the domestic area, recommended that a series of open hearings be held in early October 1975 to discuss various topics relating to urban growth. In order to fulfill HUD's responsibility, the Office of Community Planning and Development requested that HUD solicit a contract which would

provide it with information on nine topical areas which would be included in the Department's 'issue papers'. The request was accompanied by a note from the Assistant Secretary of Community Development emphasizing the importance of the project and stating that in order to meet the deadline, award would have to be made by June 1, 1975. Further discussions were held where the Program Office assured the Office of Contracts that the award of the contract must be made by June 1, 1975 and that it was possible to prepare a proposal in response to the RFP in a minimum time frame because the RFP emphasized the organization and personnel of the prospective contractor rather than proposal specifics as indicated by the factors of award. * * *

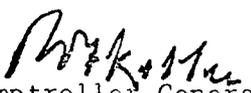
NSBA contends that the refusal to extend the due date for receipt of proposals precluded one of its members from participating in the procurement. Only limited guidance is provided by the Federal Procurement Regulations (FPR) concerning the time which should be made available for the preparation of proposals. FPR Part 1-3, governing procurement by negotiation, is silent on the subject. FPR §1-2.202-1(c) (1964 ed. amend. 139), which is applicable to formally advertised procurements, establishes guidelines which we believe may be considered in the absence of more direct rules. This section provides that as a general rule, bidding time shall not be less than 30 days when other than standard commercial articles or services are procured. However, that section further provides that the rule "need not be observed in special circumstances or where the urgency of the need for supplies or services does not permit such delay."

We have observed that the determination of the date to be specified for receipt of proposals is matter of judgment properly vested in the contracting agency, and we will not substitute our judgment unless it appears that the decision of the agency was arbitrary or capricious. 50 Comp. Gen. 565,572 (1971).

We believe the agency has a justification for allowing offerors only 13 days for the preparation of proposals.

Furthermore, we note that NSBA did not request the time extension until three days before proposals were due. Although there is no assurance that an earlier request would have resulted in a time extension, it seems to us that the lateness of the request largely deprived the agency of any flexibility it might have had in granting an extension. Finally, we are advised that four proposals, including one from a small business, were received within the allotted time. In this connection, we have resolved questions concerning the adequacy of the solicitation of supply sources by looking to whether adequate competition and reasonable prices were obtained, not to whether every possible offeror was afforded an opportunity to compete. Dynateria, Inc., B-181589, October 29, 1974, 74-2 CPD 230.

In view of the above, we do not regard the agency's refusal to grant a time extension as arbitrary or capricious. The protest is therefore denied.


Deputy Comptroller General
of the United States