

UNITED STATES DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

WASHINGTON, DC

ORDER

FAA Order

Number: ODR-97-16

Matter: Protest of SYMETRICS INDUSTRIES, INC. of Award Pursuant to Solicitation DTFA06-96-R-30034

Docket: 96-ODR-00016

Date Served: July 16, 1997

ORDER

Symetrics Industries, Inc. filed a protest challenging the decision of the Federal Aviation Administration (FAA) to award a contract to Dialogic Communications Corporation, under Solicitation DTFA06-96-R-30034. That award was a fixed-price supply contract for 12 automated notification systems for the agency's emergency command, control, and communications network. The systems are used to provide prompt notification of aviation related accidents and events to agency executives and other responsible authorities. The solicitation was issued on a "best value" basis, whereby the agency reserved the right to award to other than the low priced offer where justified by technical advantages.

Symetrics claims that the award to Dialogic was unjustified under the award criteria, as its own system was technologically superior at a lower price.

Mr. William Sheehan, Esq. was assigned by the Acting Director of the Office of Dispute Resolution (ODR) to serve as the FAA Dispute Resolution Officer in this protest. Mr. Sheehan is an impartial party in this matter. His tasks were to further develop the facts on this case and to provide a recommendation concerning resolution of the protest.

Mr. Sheehan was asked to review the record developed incident to this protest and determine whether the actions of the agency were rationally based and not arbitrary, capricious, or an abuse of discretion. He concluded the agency's technical evaluation was rationally based and supported by substantial evidence. Likewise, the price/technical trade-off was rationally based, and the award was consistent with the stated criteria.

I have reviewed the report and recommendation of Mr. Sheehan and discussed this matter with the ODR. It is my determination that the FAA complied with the Acquisition Management System and all applicable provisions of law in making the award to Dialogic.

The recommendation of the Dispute Resolution Officer is adopted as the final agency decision in this protest. For the reasons set out in that recommendation and this Order, and pursuant to section 3.9 of the FAA Acquisition Management System, this protest is denied.

This is the final agency order in this matter. To the extent that this decision is subject to review, such review shall be sought in accordance with 49 U.S.C. §46110. A petition for review must be filed with the United States Court of Appeals for the District of Columbia Circuit, or in the court of appeals of the United States for the circuit in which the petitioner resides or has its principal place of business. The petition must be filed not later than 60 days after the date that this order is issued.

_____/S/_____

BARRY L. VALENTINE

ACTING ADMINISTRATOR

Issued this *15th* day of July 1997