

UNITED STATES DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

WASHINGTON, DC

ORDER

FAA Order Number: ODR-97-17

Matter: Protest by DCT INCORPORATED, of Award Pursuant to Solicitation No. DTFA11-97-R-00104

Docket: 96-ODR-00015

Date Served: March 31, 1997

ORDER

DCT, Inc. filed a protest on October 11, 1996, challenging the decision of the Federal Aviation Administration (FAA) to award a contract to Roybal Communications Corporation, under Solicitation DTFA11-97-R-00104. Roybal participated in the protest as an interested party/intervenor.

The contract in question had been awarded by the FAA's Northwest Mountain Region to Roybal Corporation, for the facility management of several FAA owned buildings at the new Denver International Airport. DCT was notified of the award to Roybal Corporation on October 10, 1996.

DCT contends that the award criteria were improperly changed during the procurement to favor Roybal, and that Roybal lacks the management capabilities, experience, and financial wherewithal to perform the contract. The protester also contends that there is evidence to suggest that its price was revealed to Roybal prior to submission of final offers. DCT requested that the FAA terminate the contract with Roybal and direct the award to itself. The protester also requested contract suspension pending resolution of this protest.

The Office of Dispute Resolution for Acquisition (ODR) determined that a recommendation for suspension was not warranted in this protest. For the reasons explained below, I am denying this protest.

William Sheehan, Esq. was assigned, by the Acting Director of the Office of Dispute Resolution for Acquisition, 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 in 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 to determine whether the actions of the agency were rationally based and neither arbitrary, capricious, nor an abuse of discretion. He concluded that the award was made in accordance with the solicitation's criteria and was rationally based, and that there was totally insufficient evidence to support allegations of bias or price disclosure by the contracting

office. Mr. Sheehan's recommendation also notes that a responsibility determination was conducted and that it was rationally based. Accordingly, he has recommended that the protest be denied.

I have reviewed the report and recommendation of Mr. Sheehan. It is my determination that the FAA complied with the Acquisition Management System (AMS) and all applicable provisions of law in making the award to Roybal.

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 *27th* day of March 1997