

UNITED STATES DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

WASHINGTON, DC

DECISION AND ORDER

FAA Order

Number: ODR-97-13

Matter: Protest by WEATHER DATA SERVICES, INC., of Award Pursuant to Solicitation No. DTFA011-96-C-00156

Docket: 96-ODR-00010

Date Served: March 7, 1997

DECISION AND ORDER

Weather Data Services, Inc. (Weather Data) filed a protest on September 26, 1996, challenging the decision of the Federal Aviation Administration (FAA) to award a contract to Met Tech, Inc. (Met Tech). Condor Reliability Services, Met Tech, and Midwest Weather participated in the protest as *interested parties*.

Weather Data contends that as low offeror, it should have received the contract award, and that the FAA acted erroneously in finding that the second low offeror represented the best value to the agency despite its somewhat higher price. Weather Data also challenges the application of the agency's past performance evaluation factor, and alleges improprieties affecting the technical evaluation.

Mr. Donald Arnavas, an attorney and former Administrative Judge on the Armed Services Board of Contract Appeals (ASBCA), was appointed by the Acting Director of Office of Dispute Resolution for Acquisition (ODR) to serve as a Special Master in this protest. Mr. Arnavas is an impartial third party in this matter. His task was to further develop the facts in this case, and to provide a recommendation concerning resolution of the protest.

Mr. Arnavas was asked to review the record developed incident to this protest and determine whether the award to Met Tech was rationally based and not arbitrary, capricious, or an abuse of discretion. He concluded that the FAA's decision to award the contract to Met Tech had a rational basis and recommended that this protest be denied.

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

The recommendation of the Special Master 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 7th day of March 1997