

UNITED STATES DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

WASHINGTON, DC

ORDER

FAA Order

Number: ODR-97-14

Matter: Protest of NANTOM SERVICES, INC. (Weather Observation - FAA Southern Region)

Docket: 97-ODR-00023

Date Served: March 7, 1997

ORDER

NanTom Services, Inc. filed a protest on January 3, 1997, challenging the decision of the Federal Aviation Administration (FAA) to extend for three months, weather observation contracts at six sites throughout the Southern Region. Those sites had been solicited competitively in September 1996. Because of delays in obtaining wage determinations from the Department of Labor (DOL), 90 day interim contracts were issued pending competition for the large, multiyear award. As the ninety-day contracts neared expiration in December 1996, complete wage determination packages had still not been received from DOL, and the contracting officer extended each of the six sites for an additional ninety days.

NanTom claims that the most recent three month extension is a violation of a prior settlement agreement with the FAA, and also violates the agency's Acquisition Management System's policy on competition.

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 task was 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 determine whether the actions of the agency were rationally based and neither arbitrary, capricious, or an abuse of discretion. He concluded that the contracting officer had a rational basis for extending the six contracts noncompetitively for three months, pending completion of the large competitive solicitation.

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 extending the six contracts noncompetitively. It is also my conclusion that the FAA did not violate the terms of the prior settlement agreement by extending these contracts.

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 *7th* day of March 1997