
From: The LAB @ DOC
Subject: MMCB - Vol. 11 - Consideration of Late Quotes, Aug. 2020



Welcome to MMCB Volume 11! This Monday covers a GSA decision that articulates a late quote submission process that even I was not particularly aware of. If it wasn't worth reading, I wouldn't share it!

Matter of: The Winvale Group, LLC
File: [B-418804](#)
Link: <https://www.gao.gov/products/b-418804#mt=e-report>
Date: August 6, 2020

This one is brief (7 pages), but it does have **one key takeaway**. In summary – a quoter (FAR subpart 8.405) missed their submission window on GSA eBuy and tried to blame the eBuy update that was pushed prior to their closing date, however that didn't move the GAO. Next, and what is discussed below, the protestor argues that GSA was required to accept its quotation because the RFQ did not specifically prohibit the consideration of late quotations. Now, the GAO finds no merit to the protest but that is more of a 'got lucky' than GSA was correct in its actions. Let me explain...

First here is a refresh on the unique legal status of quotations:

An RFQ, unlike a request for proposals or invitation for bids, does not seek offers that can be accepted by the government to form a contract. Rather, the government's order issued in response to a quotation represents the offer that the vendor may accept through performance or by a formal acceptance document. Because of the unique legal status of a quotation, our Office has explained that language in an RFQ requesting quotations by a certain date cannot be construed as establishing a firm closing date for receipt of quotations, absent a late quotation provision expressly providing that quotations must be received by that date to be considered. Agencies should thus consider any quotations received prior to source selection if no substantial activity has transpired in evaluating quotations and other vendors would not be prejudiced.

How about that! I bet you didn't that was the right protocol that if we don't expressly prohibit late submissions then there is a possibility we have to let them in! Then if we really haven't started our evaluations then we should let them in despite missing the window.

Did GSA include such a provision? **NO!**

GSA counters the old closing date for submission of quotation argument:

Instead, the agency notes that the RFQ required quotations to be submitted via e-Buy and established a closing date for submission of quotations. The agency explains that the e-Buy portal will not accept a submission after the closing date. For this

reason, the agency contends that “under no circumstances could it have been understood that submissions would be accepted after the RFQ Close Date indicated.”

The protestor contends that since the RFQ didn’t specifically prohibit a late submission, GSA ***must*** now accept it. *Fortunately*, the record shows that GSA began evaluating quotes prior to the actual submittal (email) of the late quote from Winvale. This seems to point to an email submission being allowed for outside of eBuy, since eBuy can’t accept a late submission. Here is the GAO’s statement with an illustrative timeline example. The word ***substantial*** gets to me; what if it was only a compliance-based review with the TET being involved? Would that have been substantial? I am not so sure, interesting, nonetheless.

*On this record, we find that the agency was not required to consider the protester’s quotation based on its June 2 request, because the agency had already commenced **substantial** evaluation activities for the timely-received quotations.*

Due date: **June 1st, 10:00 AM.**
Email from Protestor: **June 2nd, 5:19 PM.**
Responsiveness Review: **June 1st, 10:00 AM (immediately after closing).**
TET Kickoff: **June 1st, 1:00 PM.**

Summary: I don’t know about you, but this was new knowledge for me! Although most of my teams include a provision speaking to late submissions, I am sure some don’t. Some Components are not as good as others in getting right to evaluations, so lets be sure all RFQs have an express provision speaking to late quotations.

This volume was originally authored in August 2020 and refreshed in March 2025.

*Disclaimer: The information contained in this MNCB is merely an opinion of the author and does not constitute formal legal or policy guidance of any kind.

