

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

10,379

FILE: B-194790

DATE: June 6, 1979

MATTER OF: Sierra Research Corporation

DLG 01732

[Protest alleging Technical Requirements of RFP Discourage Competition]

DIGEST:

Protest alleging restrictive specifications filed with GAO more than 10 days after initial adverse agency action on protest to agency is untimely. Receipt of proposals without taking corrective action urged by protester is considered to be adverse agency action under GAO's Bid Protest Procedures.

Sierra Research Corporation (Sierra) protests the award of any contract by the Department of the Navy, Automatic Data Processing Selection Office (Navy), under request for proposals (RFP) No. N66032-78-R-0004. Sierra contends that certain technical requirements of the RFP discourage competition by favoring the incumbent, are unduly restrictive, and do not represent the actual minimum needs of the Government.

In a letter dated January 9, 1979 to the contracting officer Sierra stated its objections to the allegedly restrictive specifications and it requested they be revised. Sierra stated it would protest if revisions were not made in 10 days. Navy notified Sierra on January 10 that the requested revisions were being reviewed for consideration. Sierra submitted a proposal by April 2, 1979, the closing date for receipt of initial proposals. Navy notified Sierra by letter dated April 20, 1979, of the deficiencies in its proposal and requested appropriate revisions. Sierra then filed a protest with our Office on May 4, 1979.

For the following reasons, we believe Sierra's protest is untimely under our Bid Protest Procedures, 4 C.F.R. Part 20 (1978).

The appropriate time to protest defective specifications is prior to the closing date for receipt of initial proposals. 4 C.F.R. Part 20.2(b)(1). The

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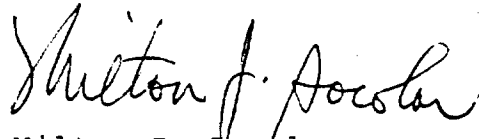
term "filed" as used above means receipt in the contracting agency or in the General Accounting Office, as the case may be. 4 C.F.R. § 20.2(b)(3).

Sierra complied with that requirement only if its letter of January 9 is considered a protest. Even if we make that assumption, however, its protest to our Office is nonetheless untimely. Under our procedures, Sierra should have filed a protest with our Office within 10 days of initial adverse agency action on the protest filed with the Navy. 4 C.F.R. § 20.2(a).

Receipt and consideration of proposals by the procuring activity on April 2, 1979, despite the concerns expressed in Sierra's letter of January 9, is adverse agency action within the meaning of our Bid Protest Procedures. General Leasing Corporation--Reconsideration, B-193527, March 9, 1979, 79-1 CPD 170. Since Sierra's protest to our Office was not filed until May 4, 1979, after the closing date for receipt of initial proposals and more than 10 days after adverse agency action on Sierrra's timely protest to the agency, it is untimely.

Accordingly, we conclude that Sierra's protest is untimely and not for consideration on the merits.

The protest is dismissed.



Milton J. Socolar
General Counsel