

THE UNCONTROLLED GENERAL

FILE: B-206765

DATE: June 30, 1982

MATTER OF: Informatics, Inc.

DIGEST:

GAO dismisses protest as untimely (for lack of diligent pursuit) where the protester waited more than a month to request verification by the contracting officer of information forming the basis of protest.

Informatics, Inc., protests against the award of a contract to Research Triangle Institute (RTI) under request for proposals (RFP) No. MDA903-82-R-0017 issued by the Army for the 1982 Worldwide Survey of Drug and Alcohol Use Among Military Personnel. Informatics contends that since the RFP required that the survey be performed at 82 installations, the Army's acceptance of the awardee's lower priced proposal, which offered to perform the survey at only 55 installations, was improper. The Army reports that the RFP did not require performance at 82 installations and that Informatics' protest is untimely under our Bid Protest Procedures. We dismiss Informatics' protest as untimely.

On December 30, 1981, the Army awarded RTI a cost-plus-fixed-fee contract in the total amount of \$349,339. Informatics' comparable evaluated total amount was \$476,688. By letter dated January 6, 1982, the Army notified Informatics that RTI was the successful offeror. On January 11, 1982, an Informatics' representative (a consultant whom Informatics proposed on the survey project) called RTI to discuss RTI's proposal. RTI states that it advised Informatics' representative that RTI proposed performing the survey at 55 installations, which probably helped RTI to keep costs down. By letter dated January 26, 1982, to the Army, Informatics requested a debriefing. The debriefing was held on March 3, 1982. Informatics

states that, at the debriefing, it asked the contracting officer whether RTI had proposed performance at only 55 installations. The Army contracting officer reports that, at the debriefing, Informatix stated that it knew that, in fact, RTI proposed performance at only 55 installations and the contracting officer explained that the RFP permitted each offeror to propose the number of installations to be surveyed in order to meet the RFP's performance requirements. On March 16, 1982, Informatix called the contracting officer and asked whether RTI had proposed performance at only 52 installations. Informatix states that the contracting officer did not answer the question. On March 17, 1982, Informatix filed the protest here.

Regarding the timeliness of Informatix' protest, the Army argues (in its report to us on the protest) that, since Informatix knew the basis for protest on January 11, 1982, Informatix' March 17, 1982, protest is untimely under 4 C.F.R. § 21.2(b)(2) (1981), which requires protests to be filed within 10 working days of the date the basis of protest is first learned.

In response, Informatix contends that only after receipt of the Army report on its protest did Informatix know for certain that RTI had proposed on the basis of performance at only 55 installations. Prior to the debriefing, Informatix states that it had only an unsubstantiated suspicion that RTI's offer did not comply with the RFP's requirements; thus, Informatix contends that it could not, in good faith, protest the award. Informatix explains that the contracting officer's failure to verify, at the debriefing, Informatix' suspicion concerning the number of installations proposed by RTI led to this protest within 10 working days of the debriefing.

RTI's admission to Informatix' representative on January 11, 1982, provided Informatix with information which was the substance of Informatix' March 17, 1982, protest. In our view, if Informatix believed that, prior to filing a protest, it should contact the Army contracting officer to request verification of the RTI admission, then Informatix was obligated to diligently pursue the matter by promptly contacting the contracting officer.

We have held that a profferor's failure to diligently pursue a matter by seeking within a reasonable time the information, which reveals the basis for protest, requires rejection of the protest as untimely. See, e.g., Entron, Inc., B-202397, August 12, 1981, 81-2 CPD 128 (protester waited more than a month to request from the agency information forming the basis for protest). Here, instead of waiting for the March 3 debriefing or calling the contracting officer on March 16, Informatics could have called the contracting officer as early as January 11, 1982, and requested verification of the information learned from RTI. Alternately, Informatics could have promptly requested a copy of RTI's contract to verify the proposed scope of the survey.

Moreover, it was not reasonable for Informatics to attempt to discover details of another offeror's proposal at a debriefing. The Defense Acquisition Regulation § 3-508 (1976 ed.) provides that the purpose of a debriefing is to provide an unsuccessful offeror with the Government's evaluation of the significant factors, deficiencies, and weaknesses contained in its proposal so that the offeror can improve its future proposals. The regulation also provides that point-by-point comparisons of other offerors' proposals shall not be made at a debriefing. Clearly, Informatics' failure to raise the matter with the contracting officer until the March 3 debriefing does not constitute the required diligent pursuit. Accordingly, we will not consider the merits of Informatics' protest.

Protest dismissed.

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