

DECISION

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

26279

FILE: B-212691**DATE:** September 23, 1983

MATTER OF: Perry, Dean, Rogers & Partners:
Architects

DIGEST:

Contracting officer's decision to refuse to consider protester's late qualification forms that were submitted pursuant to a procurement under the Brooks Act, 40 U.S.C. § 541, et seq. (1976), is upheld because agency published appropriate notice in the Commerce Business Daily and has evaluated and ranked timely respondents.

Perry, Dean, Rogers & Partners: Architects (Architects) protests the National Park Service (Park Service), North Atlantic Regional Office's refusal to consider its late standard forms (SF) 254 and 255, which were submitted in accordance with the Brooks Act, 40 U.S.C. § 541, et seq. (1976). The Park Service sought qualifications from architectural firms interested in preparing plans and specifications for the interior reconstruction of the Boott Mill Boarding House, Lowell, Massachusetts.

The protest is summarily denied. We do so without obtaining an agency report because it is clear from the facts and circumstances surrounding the protest that it is without legal merit. 4 C.F.R. § 21.3(g) (1983) (Federal Register Vol. 48, No. 11, pg. 1932, January 17 1983); Burroughs Corporation, B-207660, June 23, 1982, 82-1 CPD 622.

Announcement of the procurement and the notice requiring submission of the forms was published in the Commerce Business Daily (CBD) on July 7, 1983. Firms desiring consideration were advised to submit SF 254 and 255 to the contracting officer at the Park Service not later than 20 calendar days from the date of the publication, which was July 27. The contracting officer informally advises us that 35 interested firms responded to the CBD notice in a timely manner. Architects advises that it did not submit the forms by the due date because it had not seen the CBD notice. On August 12, the Park Service convened an evaluation team that reviewed the forms of the responding firms and ranked them according to qualifications. Also, the contracting officer

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advises that on August 11, Architects contacted him to discuss the possibility of submitting the forms late. Architects was instructed to have the forms in the contracting officer's office the following day. Architects' forms were received by the contracting officer on August 16 because Architects submitted the forms to the wrong address.

Under the Brooks Act it is the agency's responsibility to publicly announce all requirements for architect-engineer (A-E) services and to negotiate contracts on the basis of firms' demonstrated competence and qualifications for the type of A-E service required. As noted above, appropriate notice of the procurement was published in the CBD, with ample time for responding. In addition, the protester was afforded the opportunity to submit its forms after the original closing date. Only through its inadvertence or negligence did the protester fail to timely respond. In these circumstances, we believe it would be prejudicial to the firms that timely responded, as well as to the Park Service, to require a reconvening of the evaluation team for the purpose of reviewing Architects' late forms and reranking the offerors according to their qualifications for the purpose of negotiations. Therefore, we see nothing improper in the contracting officer's decision not to consider the late forms from Architects.

Accordingly, we summarily deny the protest.)

Milton J. Jordan
for Comptroller General
of the United States