



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: American Electro-Coatings Corp.

File: B-225417

Date: October 28, 1986

DIGEST

A protester has not diligently pursued information that forms the basis for its protest when it waits approximately 4 months after bid opening before it attempts to obtain information on the award. Such a protest is considered to be untimely and will not be considered.

DECISION

American Electro-Coatings Corporation protests the award of a contract for electrostatic painting of metal furniture under General Services Administration (GSA) solicitation No. 9FCG-OSH-A-A 08 78/86. American's bid was rejected for failure to acknowledge an amendment. American asserts it never received the amendment in question.

We dismiss the protest.

According to American the bid opening date was June 18, 1986. It was not until October 16, 1986, however, that American attempted to obtain any information concerning the award through a telephone call to the contracting activity. It was at this time that American discovered the basis for the rejection of its bid--its failure to acknowledge the amendment.

The General Accounting Office Bid Protest Regulations require that protests be filed within 10 days after the basis of protest is known or should have been known. 4 C.F.R. § 21.2 (1986). In order to avoid having its protest dismissed as untimely, a protester cannot sit idly by while awaiting information that provides the basis for its protest, but must instead diligently pursue the information within a reasonable time. Greishaber Mfg. Co., Inc., B-222435, Apr. 4, 1986, 86-1 CPD ¶ 330. We are of the opinion that waiting

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approximately 4 months after bid opening before attempting to obtain information cannot be considered to be diligent pursuit. The protest filed on October 23, 1986 is therefore untimely even though it was filed within 10 days of the October 16 telephone conversation with GSA.

In any event, a bidder's failure to acknowledge a material amendment generally renders the bid nonresponsive. Moreover, the risk of nonreceipt of a solicitation amendment rests with the bidder, unless it is shown that the failure to receive the amendment resulted from a deliberate attempt by the agency to exclude the bidder from the competition. Simco, Inc., B-222294, Apr. 16, 1986, 86-1 CPD ¶ 376.

The protest is dismissed.



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