



The Comptroller General
of the United States

Washington, D.C. 20548

Carter

Decision

Matter of: Coastal Carolina Maintenance, Inc.--
Reconsideration
File: B-227141.3
Date: July 2, 1987

DIGEST

1. Failure to consult with counsel or delay in doing so does not provide a basis to extend the period for filing a bid protest.
2. Dismissal as untimely of contention, based on observations by protester's employees, that Air Force failed to safeguard proposal is affirmed where original protest gave no hint that such employees had no reason to recognize the impropriety or that protester's management was not aware of their observations. In any event, protester has provided no evidence of prejudice, that is, that any other offeror saw the firm's proposal.

DECISION

Coastal Carolina Maintenance, Inc. (CCMI), requests reconsideration of our decision in Coastal Carolina Maintenance, Inc., B-227141, B-227141.2, June 1, 1987, 87-1 CPD ¶ _____, in which we dismissed as untimely CCMI's protest against the proposed award of a contract to another vendor under request for proposals (RFP) No. F09650-86-R-0332, issued by the Department of the Air Force. In its protest, CCMI objected to the evaluation and selection criteria, contested the use of negotiated in lieu of sealed bid procedures, contended that the Air Force should have held further negotiations, and complained that the Air Force failed to safeguard CCMI's proposal properly.

We affirm the dismissal.

We dismissed CCMI's objections to the evaluation and selection criteria because CCMI's protest of these apparent alleged solicitation improprieties was not filed until 4 months after the RFP's January 26 closing date. Our Bid Protest Regulations require that a protest of alleged improprieties apparent on the face of a solicitation be filed before the closing date of the solicitation, 4 C.F.R. § 21.2(a)(2) (1986). We also dismissed CCMI's contention that the Air Force should have held further negotiations because CCMI failed to provide any evidence of prejudice.

CCMI's allegation that the Air Force failed to safeguard its proposal was based on the assertion that on two occasions prior to March 2, CCMI employees observed CCMI's proposal lying open on a desk in an Air Force office with no government personnel present. We dismissed this contention because it was not raised within 10 working days of these observations; our regulations require that a protest of other than an impropriety in the solicitation be filed within 10 working days after the basis for protest was or should have been known. 4 C.F.R. § 21.2(a)(2).

CCMI contends that our decision was in error because the alleged solicitation improprieties primarily involve questions of law, and CCMI did not bring these matters to the attention of its counsel until after May 15. CCMI asserts that because its personnel are not legally trained and could not reasonably be expected to recognize such procurement improprieties, timeliness of its protest should be measured from when counsel was apprised of these matters. Failure to consult with counsel or delay in doing so, however, does not provide a basis for extending the period within which a protest must be filed. Media Associates Inc., B-211153, Apr. 12, 1983, 83-1 CPD ¶ 385.

CCMI also asserts that it should not have been charged with notice of the Air Force's failure to safeguard CCMI's proposal because the people who saw the open offer were not knowledgeable about procurement and had no reason to bring the matter to the attention of CCMI's management until questions were raised about the award of the contract. CCMI did not raise this point in its original protest, however, which gave no hint that CCMI's management was not aware of the alleged impropriety. In any case, CCMI has offered no evidence that it was prejudiced by the Air Force's alleged failure to safeguard the proposal, that is, that any other offeror actually saw the proposal.

CCMI argues that, even if its protest is untimely, we should consider it under the exception to our timeliness rules for significant issues. See 4 C.F.R. § 21.2(c). However, we apply this exception only to matters of widespread interest or importance to the procurement community that have not been considered on the merits in previous decisions.

Dayton T. Brown, Inc., B-223774.3, Dec. 4, 1986, 86-2 CPD
¶ 642. The matters to which CCMI objects are not
significant issues under that standard.

The dismissal of CCMI's protest is affirmed.

for Seymour Efron
Harry R. Van Cleve
General Counsel