



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Paramount Systems, Inc.
File: B-229648.2
Date: December 30, 1987

DIGEST

1. Protester's letter of protest accompanying a proposal was not a timely protest of alleged solicitation deficiencies.
2. Oral protest of alleged solicitation deficiencies prior to closing date did not constitute timely protest under the Federal Acquisition Regulation.

DECISION

Paramount Systems, Inc., requests reconsideration of our dismissal as untimely of its protest under United States Army Materiel Command request for proposals (RFP) DAAD05-87-R-1203. We affirm our prior dismissal.

Proposals were due and received on September 24, 1987. Prior to this date, Paramount "questioned" the solicitation specifications by letters and through telephone conversations. One letter dated September 4, 1987, requested a meeting to discuss specification deficiencies, and a second letter dated September 9, 1987, offered examples of inconsistencies and ambiguities in the specifications. In addition, Paramount alleges that it submitted with its proposal a letter questioning the specifications and indicating that they were inadequate. Paramount asserts that its conversations and letters constitute a timely protest.

Our Bid Protest Regulations require protests based upon alleged improprieties in a solicitation that are apparent before closing date for receipt of initial proposals to be filed prior to that date. 4 C.F.R. § 21.2(a)(1) (1987).

The record indicates that on September 14, 1987, apparently in response to Paramount's earlier letters, the Army issued

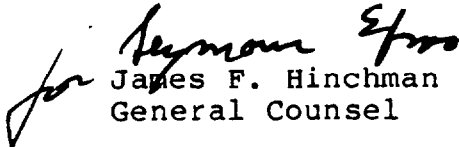
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an amendment to the specifications. Subsequently, Paramount submitted its proposal on September 24, 1987, accompanied by a letter indicating that the amendment did not correct all of the deficiencies.

Even if Paramount's letters of September 4 and 9 were considered protests, Paramount failed to timely protest the September 14, 1987, amendment to the specifications which Paramount contends did not correct all of the deficiencies. Our Office does not regard a protest included in a proposal as a timely preopening protest to the agency, since there is no requirement that an agency open or read proposals on or before the closing date, when a protest of this type must be filed. East Norco Joint Venture, Ramer Products, Ltd., B-224022 et al., Jan. 5, 1987, 87-1 C.P.D. ¶ 6.

Paramount refers to numerous telephone calls that were made. Even if in one or more of these conversations, took place after issuance of the amendment and stated a basis of protest, our Office could not consider it as constituting a timely protest as oral protests are not recognized under the Federal Acquisition Regulations, 48 C.F.R. § 33.101 (1986); N.V. Heathorn, Inc., B-227307, June 23, 1987, 87-1 C.P.D. ¶ 624.

The dismissal is affirmed.


James F. Hinchman
General Counsel