



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Diogenes Corporation

File: B-229828

Date: January 13, 1988

DIGEST

Protest that solicitation was unduly restrictive is untimely where the protest was filed after bid opening.

DECISION

Diogenes Corporation protests the award of a contract to any bidder under solicitation number BEP-87-43(N), issued by the Bureau of Engraving and Printing, Department of the Treasury.

We dismiss the protest as untimely.

Diogenes contends that the restrictive nature of the "Evaluation Factors for Award" set forth in the solicitation "precluded the selection of any firm other than the one that was chosen." It specifically complains that the use of the phrases "recognized authority" and "highly qualified" unfairly favored a single firm. Diogenes also refers to discussions it had with contracting personnel after award which confirmed its belief that the agency's intention was to award the contract to a particular bidder.

Bid opening was September 28, 1987, and Diogenes filed its protest with our Office on December 16. Our Bid Protest Regulations provide that a protest based upon alleged improprieties in a solicitation that are apparent prior to bid opening must be filed before that time. 4 C.F.R. § 21.2(a)(1) (1987); see ATD-American Co., B-227234, July 28, 1987, 87-1 C.P.D. ¶ 103. This protest, accordingly, is untimely.

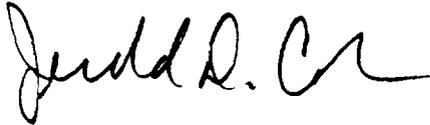
Diogenes contends that the protest should be considered, despite not having been filed before bid opening, because the basis of the protest did not become apparent until after the award of the contract and subsequent discussions with the contracting personnel. Diogenes, however, offers no support for this assertion. The protest is based on the wording of the evaluation factors in the solicitation.

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There is no evident reason, and Diogenes has brought no reason to our attention, why the basis of the protest could not have been known prior to bid opening.

We may grant an exception to our timeliness rules for "good cause" when it can be shown that some compelling reason beyond the protester's control prevented the timely filing of a protest. See 4 C.F.R. § 21.2(c); Filmore Construction Co., B-228656, Aug. 7, 1987, 87-2 C.P.D. ¶ 141. That is not the case here.

The protest is dismissed.



for Robert M. Strong
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