



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Sacramento Metropolitan Officials Association
File: B-230563
Date: March 16, 1988

DIGEST

Where a protester waits over 3 months for a reply to a complaint to a contracting agency before it files a protest with GAO the protester did not diligently pursue the matter, and its protest with GAO is untimely.

DECISION

Sacramento Metropolitan Officials Association (SMOA) protests the award of a contract to North Highlands Officials Association (NHOA) under request for proposals (RFP) No. F04699-87-R0174, issued by the McClellan Air Force Base, California, for officiating services.

SMOA alleges NHOA failed to comply with two requirements in the solicitation. Part I, section B requires: "Contractor shall throughout the term of this agreement, maintain a minimum of fifteen officials sanctioned and registered with the Amateur Softball Association of America (ASA) to perform these officiating services." Section H-22 requires insurance. We dismiss the protest.

On November 2, 1987, an award of the contract was made to NHOA for officiating services. A representative from SMOA met with the contracting officer at McClellan on November 19. At this time, SMOA alleges that it presented evidence that NHOA did not have registered officials or insurance as required. The Contracting Officer offered to investigate the matter. After receiving no response, SMOA filed a protest on February 17, 1988, with the General Accounting Office sublocation in Sacramento, California. Our Office, received the protest on February 29.

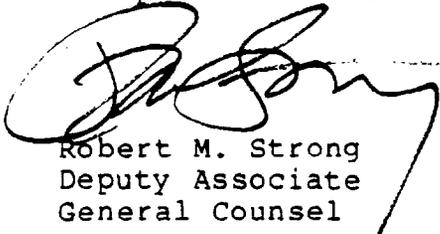
An agency-level protest is a written objection to an agency to an award or proposed award of a contract for supplies or services; oral protests are not acceptable. Federal Acquisition Regulation § 33.101. Thus, no agency-level

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protest was in fact ever filed in this case. Nonetheless, even if we consider the meeting to be a protest for the purpose of this decision, the protest is untimely. A protester is not permitted to delay filing a protest with our Office until it eventually receives a decision from the contracting agency. Rather a protester may wait only a reasonable time for a contracting agency's response before filing a protest here in order to be timely. Bonnie, Bonnie & Horowitz, B-226583.2, Apr. 16, 1987, 87-1 CPD ¶ 419. Previously, we have dismissed a protest where a protester waited 3 months to file at the General Accounting Office after having filed an initial protest with the agency. REACT Corp., B-219642, Aug. 22, 1985, 85-2 CPD ¶ 215. Similarly, in this case, despite the fact that SMOA knew by November 19 that an award had been made to another firm and that firm presumably was performing, SMOA waited more than 3 months after receiving no response to its agency-level complaint to file a protest here. Thus, even if we were to consider the November 19 meeting with the contracting officer to be a protest, SMOA failed to diligently pursue this matter. The protest is therefore untimely and will not be considered.

In any event, it appears that what is involved here is a matter of contract administration which is not for consideration under our Bid Protest Regulations, 52 Fed. Reg. 46445, 46448 (1987) to be codified at 4 C.F.R. § 21.3(m)(1) (1988).

The protest is dismissed.



Robert M. Strong
Deputy Associate
General Counsel