



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: CardioMetrix--Reconsideration
File: B-231361.2
Date: June 7, 1988

DIGEST

1. Protest filed more than 10 working days after protester learned of the denial of its agency-level protest is untimely and is not for consideration.
2. Protest challenging specific solicitation requirements is untimely where basis for protest was evident from face of solicitation and protest was not filed prior to the closing date for receipt of initial proposals.
3. An untimely protest will not be considered under the significant issue exception to the bid protest timeliness requirements where the issue raised is not of widespread interest to the procurement community.

DECISION

CardioMetrix (CMX) requests that we reconsider our notice of May 9, 1988, dismissing its protest against a request for proposals (RFP) issued by the University of Washington for services to support the University's contract with the National Institute of Health. CMX protested that members of the RFP planning and review committees had a conflict of interest and that the RFP specifications were unduly restrictive of competition. We dismissed the protest as untimely. In its request for reconsideration, CMX argues that our Office erred in dismissing its protest and that its protest raises a significant issue which should be considered irrespective of the timeliness of its protest.

We affirm the dismissal.

Our Bid Protest Regulations provide that where a protest has been initially filed with the contracting agency, any subsequent protest must be filed in our Office within 10 working days of actual or constructive knowledge of initial adverse agency action. 4 C.F.R. § 21.2(a)(3) (1988). CMX initially protested to the University on November 20, 1987, that members of the RFP planning and review committees had a

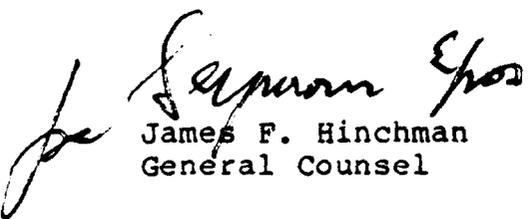
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conflict of interest. The University denied CMX's protest by letter dated November 25. CMX's subsequent protest to our Office was not filed until May 6, 1988, more than 5 months after the denial of its protest by the University, and is untimely. A letter from the University dated April 19, 1988, which advised CMX that its proposal had not been selected, did not provide any additional basis for protest in this respect.

In its subsequent protest to our Office, CMX also argued that the specific experience and "stability and permanence" provisions of the RFP impose requirements which are unduly restrictive of competition. The challenged provisions are clear on the face of the solicitation. Our Regulations require that protests based upon alleged improprieties in a solicitation which are apparent prior to the closing date for receipt of initial proposals must be filed prior to that date. 4 C.F.R. § 21.2(a)(1). Since CMX did not protest these alleged improprieties until after the closing date for receipt of initial proposals, its protest on this issue is also untimely.

CMX also argues that, even if its protest is untimely, we should consider it because the alleged conflict of interest constitutes a serious breach of procurement regulations. We will consider an untimely protest under the "significant issue" exception to our timeliness requirements where the protest raises an issue of first impression that would have widespread significance to the procurement community. 4 C.F.R. § 21.2(b); LORS Machinery, Inc.--Reconsideration, B-227499.2, July 13, 1987, 87-2 CPD ¶ 41. The alleged conflict of interest to which CMX objects is not a significant issue under this standard because the issue has been previously considered. See Coopers & Lybrand, B-224213, Jan. 20, 1987, 66 Comp. Gen. _____ (1987), 87-1 CPD ¶ 100.

The dismissal of the protest is affirmed.


James F. Hinchman
General Counsel