



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Viking America, Inc.

File: B-235258

Date: April 28, 1989

DIGEST

Protest concerning proposed award of a contract on a sole-source basis is dismissed as untimely when filed more than 10 working days after the protester knew or should have known the basis of protest.

DECISION

Viking America, Inc., protests the Department of the Army's sole-source award of contract No. DAAK01-89-C-0067, for supplying dry suits, to Diving Unlimited International (DUI).

We dismiss the protest as untimely.

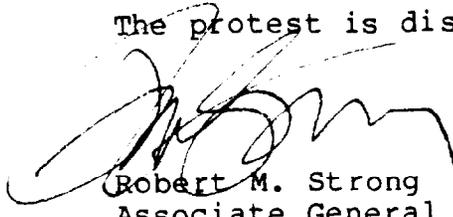
A synopsis of the proposed sole-source award was published in the Commerce Business Daily (CBD) on October 3, 1988. The synopsis stated that the procurement was restricted to prequalified offerors and that only DUI was an approved source. The solicitation was issued on January 20, 1989. DUI submitted the only offer and was awarded the contract on March 31. Viking filed its protest in our Office on April 20.

We have held that publication of a procurement in the CBD constitutes constructive notice of the solicitation and its contents. S.T. Research Corp., B-232751, Oct. 11, 1988, 88-2 CPD ¶ 342. Therefore, Viking, by virtue of the October 3 CBD notice, is charged with knowledge of the proposed sole-source award. Id. Our Bid Protest Regulations require that a protest be filed not later than 10 working days after the basis of protest is known or should have been known, whichever is earlier. 4 C.F.R. § 21.2(a)(2) (1988). Accordingly, Viking was required to file its protest on or before the 18th of October. Since

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the protest was not filed in our Office until April 20, 1989, more than 6 months after the CBD notice was published, we will not consider it on the merits. Id.

The protest is dismissed.



Robert M. Strong
Associate General Counsel