

Mr. Spiegel



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Tierra Engineering Consultants, Inc.

File: B-237876

Date: January 5, 1990

DIGEST

Protest against a restrictive geographic specification in a solicitation is untimely filed after the closing date for responses to Commerce Business Daily (CBD) announcement where the restriction was stated in the CBD announcement.

DECISION

Tierra Engineering Consultants, Inc., protests a contract award under request for engineering services No. CX-2000-9-0045, issued by the U.S. Department of the Interior, National Park Service.

We dismiss the protest.

On August 31, the Denver Service Center of the National Park Service advertised in the Commerce Business Daily (CBD) for an indefinite quantities contract for miscellaneous engineering services. The CBD announcement specifically provided that only engineering teams located within the Denver metropolitan area were eligible for award. This announcement indicates that this geographic restriction is necessary for close and timely coordination with the agency. Responses were to be submitted by October 2, 1989.

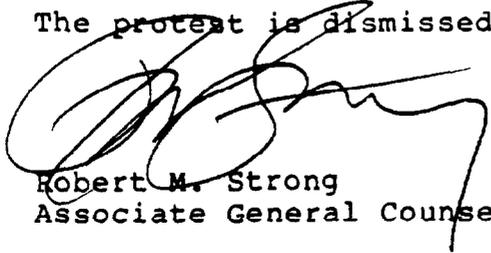
Tierra's response to the solicitation for engineering services was rejected on October 23, since Tierra is located outside the Denver metropolitan area. On October 31, Tierra protested to the agency that this geographic restriction was improper and the protest was denied on November 16. On November 27, Tierra filed this protest with our Office challenging the geographic specification as being unduly restrictive in that it prevents a New Mexico firm, like the protester, from competing.

Tierra does not dispute that it did not meet the geographic restriction; instead, Tierra claims the restriction is improper. However, since Tierra's protest is based on an

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alleged impropriety apparent from the solicitation, it was required to be filed either with the contracting agency or our Office prior to receipt of responses in order to be considered timely under our Bid Protest Regulations. 4 C.F.R. § 21.2(a)(1) (1989). Tierra's protest to the agency was filed almost a month after the closing date of October 2, and with our Office almost a month later. Since Tierra's initial protest to the agency was untimely under our Bid Protest Regulations, its subsequent protest to our Office also is untimely. 4 C.F.R. § 21.2(a)(3).

The protest is dismissed.



Robert M. Strong
Associate General Counsel