

J. Miller



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: C & T Marketing Consultants, Inc.

File: B-236865

Date: January 5, 1990

DIGEST

Alleged oral advice by agency contract negotiator that closing date for receipt of proposals would be extended by amendment does not constitute an oral amendment and is not binding on the government.

DECISION

C & T Marketing Consultants, Inc. protests any award under request for proposals (RFP) No. DACA31-89-R-0089, issued by the Army Corps of Engineers, Baltimore District, for postwide custodial services at Fort Belvoir from October 1, 1989 through September 30, 1990. C & T asserts that it was precluded from submitting a timely proposal due to its reliance on oral advice from the agency that the closing date for receipt of proposals would be extended.

We deny the protest.

The RFP was issued on July 20, 1989, and 12 proposals were received by the August 21 closing date. On August 17, the protester telephoned the Baltimore District with technical questions and, according to the protester, the contract negotiator informed C & T that the closing date would be extended. The protester alleges that the contract negotiator assured that the closing date would be extended to either the end of August or the beginning of September, and that the protester would receive an amendment to that effect.

The agency indicates that it had considered possible changes to the solicitation which would have required an extension of the closing date, but determined that amendments and an extension were not in the best interest of the government. Therefore, no changes were made in the solicitation specifications, nor was the original closing

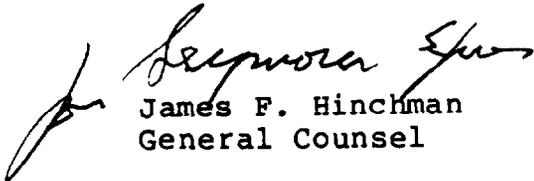
C47425/140342

date for receipt of proposals extended. The agency also reports that its contract negotiator advised C & T only that an extension was being considered.

When C & T contacted the Baltimore District on August 28 to inquire about the status of the amendment, it was told that the government had decided not to extend the date for receipt of proposals, and that the closing date had passed. C & T requested that the District extend the closing date for receipt of proposals, and that it be allowed to compete for the award. The agency refused to consider C & T's proposal or to extend the closing date. As a result, C & T protested to the agency and to our Office, arguing that it had been given oral advice which it interpreted as an "oral amendment" to the RFP.

Federal Acquisition Regulation § 15.410(b) (FAC 84-49) authorizes oral extension of the closing date for receipt of proposals. The provision provides for such an oral extension where the time available before closing is insufficient for written notice, but also requires that such an extension be confirmed by a written amendment. However, even if we accept C & T's version of the telephone conversation with the contract negotiator, it is clear that no oral extension was granted. The FAR provision calls for notification of the extension, but here, at most, the contract negotiator advised C & T of a future intention to extend the closing date. In fact, no extension was subsequently granted, orally or in writing. Under these circumstances, the agency was under no obligation to extend the closing date, and C & T relied on the contract negotiator's oral "assurance" that an extension would subsequently be granted at its own risk. Management Concepts, Inc., B-222583, June 3, 1986, 86-1 CPD ¶ 517.

Accordingly, the protest is denied.


James F. Hinchman
General Counsel