

over



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Space Vector Corporation

File: B-237986.3

Date: January 17, 1990

DIGEST

1. Protest against alleged solicitation improprieties that were apparent prior to the closing date for the receipt of initial proposals is untimely where not filed before the closing date.
2. Protest regarding content of discussions is untimely filed under Bid Protest Regulations since it was not filed within 10 working days of when discussions were conducted or best and final offers submitted.
3. New and independent grounds of protest, concerning the contracting agency's technical evaluation of the protester's proposal, based on debriefing are dismissed as untimely where filed more than 10 working days after the debriefing.

DECISION

Space Vector Corporation protests the award of a contract to Space Data Corporation under request for proposals (RFP) No. SDIO-89-R-0006, issued by the Department of Defense, Strategic Defense Initiative Organization (SDIO), for flight test services for SDIO sensor and interceptor technology.

Space Vector first protested this procurement in a letter filed in our Office on December 6, 1989. Specifically, Space Vector argued that the RFP was not sufficiently defined to do realistic costing and that the procedure for conducting discussions was improper. Space Vector also complained that Space Data's proposed subcontractor has performed work which may provide Space Data with an unfair competitive advantage. On December 20 we received a letter dated December 18 which Space Vector described as follow up

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to its original protest. Space Vector raised numerous additional grounds of protest concerning the evaluation of proposals based upon information it says it obtained at a December 5 debriefing.

With one exception,^{1/} we find that Space Vector's protest is untimely.

Under our Bid Protest Regulations, protests based upon alleged improprieties in a solicitation which are apparent prior to the closing date for the receipt of initial proposals are required to be filed prior to the closing date for the receipt of initial proposals. Therefore, Space Vector's protest that the RFP was not sufficiently defined is untimely under our Bid Protest Regulations since it was filed 3 months after the September 8, 1989, closing date. 4 C.F.R. § 21.2(a)(1) (1989); Wallace Coast Mach. Co., B-235608, Sept. 15, 1989, 89-2 CPD ¶ 234.

Space Vector's protest of the content of discussions is also untimely. Although the discussions in question were conducted on October 23 and best and final offers submitted November 3, Space Vector protested this matter on December 6, after award was made. In order to be considered timely, this issue was required to be filed before November 3, the next closing date for receipt of proposals. 4 C.F.R. § 21.2(a)(1); Bachy/Bauer/Green Joint Venture, B-235950, Sept. 18, 1989, 89-2 CPD ¶ 240.

In the December 18 letter, Space Vector contends that SDIO did not properly evaluate the cost realism of proposals, that the evaluation was flawed for not comparatively evaluating proposals, that the evaluation was fragmented, that the evaluators were not qualified and that the proposal was evaluated unfairly. Space Vector states that this letter follows up the initial protest.

The timeliness of specific bases of protest raised after the filing of a timely initial general protest depends upon the relationship the later-raised bases bear to the initial protest. Where the later bases present new and independent grounds for protest, they must independently satisfy our timeliness requirements. Conversely, where the later contentions merely provide support for an earlier timely-raised objection, we consider these additional arguments.

^{1/} Space Vector's protest that Space Data's subcontractor provides Space Data with an unfair competitive advantage appears to be timely and we have requested the agency to submit a report on this matter.

However, the fact that an initial protest includes a general allegation of impropriety provides no support for the timeliness of more specific grounds. Id.

In this case, since Space Vector's December 18 protest contains new and independent grounds of protest, it was required to be filed in our Office not later than 10 working days after the basis of protest was known or should have been known, whichever was earlier. See 4 C.F.R. § 21.2(a)(2). Since Space Vector advises that these contentions were revealed at the December 5 debriefing, we find that these contentions, filed on December 20, are untimely.

The protest is dismissed.

Robert M. Strong

for Robert M. Strong
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