



**The Comptroller General  
of the United States**

Washington, D.C. 20548

*Melody*

**Decision**

**Matter Of:** Locum Tenens, Inc.--Reconsideration

**File:** B-240928.2

**Date:** September 13, 1990

John D. Smith for the protester.  
Christine S. Melody, Esq., Office of the General Counsel,  
GAO, participated in the preparation of the decision.

**DIGEST**

Request for reconsideration of dismissal as untimely of protest challenging amount of time agency allowed for offerors to respond to solicitation amendment is denied where protest was not filed until after revised closing date for receipt of proposals, since protest involved alleged solicitation impropriety and therefore had to be filed no later than revised closing date.

**DECISION**

Locum Tenens, Inc. requests reconsideration of our dismissal of its protest concerning request for proposals (RFP) No. DAKF31-90-R-0346, issued by the Department of the Army. The protester argued that the agency did not allow sufficient time for offerors to respond to an amendment to the RFP.

We deny the request for reconsideration.

The RFP initially required proposals to be submitted by July 30, 1990. Locum Tenens states that after it completed and mailed its offer on July 26, it was advised by the agency that the RFP requirements were being revised and that an amendment incorporating the revisions and establishing a new due date for proposals would be issued. The protester received amendment No. 1 on August 13, setting a revised proposal due date of August 17. The following day, the protester received amendment No. 2; the August 17 due date for proposals was unchanged.

The protester contends that the amended due date did not give sufficient time to respond to the revised RFP requirements. The protester states that it raised its concerns in this regard in telephone conversations with

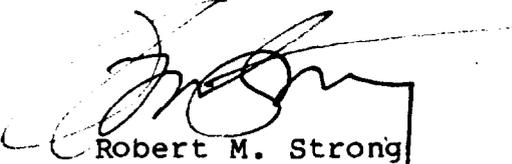
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contracting officials. There is no evidence that the protester filed a written protest with the agency, however, and its protest to our Office was not filed until August 27.

The basis of the protest--the revised due date for proposals --was clear from the face of the RFP as revised by amendments No. 1 and 2. Our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (1990), specifically state that where, as here, a protester challenges an alleged solicitation impropriety which did not exist in the initial solicitation but which is subsequently incorporated into the solicitation, any protest on that ground must be filed not later than the next closing date for receipt of proposals. Accordingly, to be timely, Locum Tenens's protest had to be filed no later than August 17, the revised due date for proposals. Since it was not filed until August 27, it was properly dismissed as untimely. T&A Painting, Inc., B-236847, Sept. 12, 1989, 89-2 CPD ¶ 231.1/

In its request for reconsideration, the protester argues that the protest is timely because it was filed within 10 working days after August 14, when it received amendment No. 2, and August 17, the revised due date. The timeliness rule on which the protester bases its argument--allowing protests to be filed within 10 working days of when the protester has actual or constructive knowledge of the basis for protest--applies only to protests involving other than solicitation improprieties, and thus does not apply to this protest. See 4 C.F.R. § 21.2(a)(2).

The request for reconsideration is denied.



Robert M. Strong  
Associate General Counsel

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1/ Any pre-closing date conversations that the protester may have had with the contracting officials did not constitute a protest to the agency so as to make a subsequent protest to our Office timely, since oral protests are not provided for under the Federal Acquisition Regulation (FAR). See FAR § 33.101; Axelrod Publishing of Tampa Bay, B-226934, July 6, 1987, 87-2 CPD ¶ 17.