



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Econo Lodge--Reconsideration

File: B-239912.5

Date: October 3, 1990

John E. Savoy, Esq., Hill & Savoy, for the protester.
Mike Harris, for Lodging Consultants, Inc., an interested party.
Herbert F. Kelley, Jr., Esq., Department of the Army, for the agency.
Robert Spiegel, Esq., Office of the General Counsel, GAO, participated in preparation of the decision.

DIGEST

Dismissal of protest filed after bid opening against geographical restriction in invitation for bids is affirmed because the protest is based on an alleged solicitation impropriety that was required to be protested prior to bid opening.

DECISION

Econo Lodge requests reconsideration of our decision in its protest, B-239912.2, Aug. 15, 1990, 90-2 CPD ¶ ____, which dismissed as untimely Econo Lodge's protest against invitation for bids (IFB) No. DAEA18-90-B-0002, issued by the Department of the Army for meals and lodging to be furnished armed forces applicants at the Military Entry Processing Station (MEPS) in Phoenix, Arizona.

The dismissal is affirmed.

The IFB provided that "bids will not be considered from bidders whose facilities are located in high crime areas within a 10-mile radius of the MEPS" The provision then went on to precisely define the location of the high crime area. Econo Lodge protested this restriction almost a month after bid opening. We dismissed the protest because we found that it was based on an alleged solicitation impropriety, which was required to be protested prior to bid opening.

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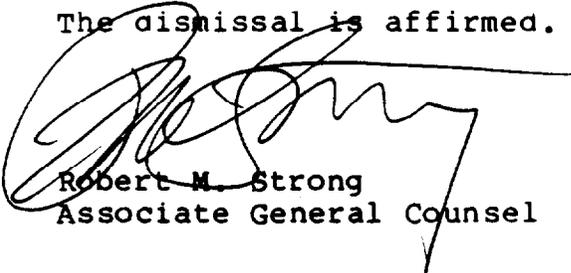
Econo Lodge contends that the dismissal of its protest was improper since nowhere in the IFB does "the military" designate this region as a high-crime area, but rather only represents that the Phoenix Police Department has done so, which Econo Lodge asserts is a misstatement of fact. Econo Lodge states that, according to Webster's Unabridged Dictionary, an "impropriety" is only a misuse of words, not a misstatement of fact, and that we only used that term in its loosest sense in dismissing Econo Lodge's protest.

The IFB expressly stated that "bids will not be considered" from facilities in the designated "high crime area." It is obvious that the inclusion of this provision in the IFB represented the Army's adoption of the position that this was a "high crime area."

Moreover, the Econo Lodge definition of "impropriety" is far more restrictive than that word's common meaning--even according to Econo Lodge's cited source. Webster's 3rd New Int'l Dictionary, 1138 (Unabr. 1966), defines the word "impropriety" as "the quality or state of being improper," and Black's Law Dictionary (5th ed.) defines the word "improper" to mean "[n]ot in accordance with fact, truth, or right procedure"

Since the protester alleges this restriction^{1/} is not in accordance with fact, truth, right procedure or in any other way suited to the proposed procurement, it was obliged to make that objection known through a formal protest, either to the agency or our Office, before the time of bid opening. 4 C.F.R. § 21.2(a)(1) (1990). Given that the protester waited to file its protest until more than a month had passed after bid opening it was properly found untimely.

The dismissal is affirmed.



Robert M. Strong
Associate General Counsel

^{1/} We have recognized that geographic restrictions must be protested prior to bid opening or the closing date for receipt of proposals to be considered timely. Tierra Eng'g Consultants, Inc., B-237876, Jan. 5, 1990, 90-1 CPD ¶ 129; Don Strickland Consultant and Advisory Serv., B-214733, Apr. 11, 1984, 84-1 CPD ¶ 412.