



Comptroller General
of the United States

Washington, D.C. 20548

A. Perry

Decision

Matter of: J&J Maintenance, Inc.

File: B-240799.2; B-240802.2

Date: February 27, 1991

Donald E. Barnhill, Esq., East & Barnhill, for the protester.
Thomas G. Jeter, Esq., Sherman & Howard for Hospital Shared Services of Colorado, an interested party.
Major Jack B. Patrick, Esq., and Herbert F. Kelley, Jr., Esq., Department of the Army, for the agency.
Anne B. Perry, Esq., and Paul Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

General Accounting Office's Bid Protest Regulations do not contemplate the piecemeal presentation of arguments or information relating to a protest, and it is incumbent upon a protester raising one basis of protest to diligently pursue information pertinent to the protest as well as information that reasonably would be expected to reveal additional bases for protest. Where record does not indicate that protester diligently pursued such information, allegation raised after initial protest is denied as untimely.

DECISION

J&J Maintenance, Inc. protests the award of a contract to Hospital Shared Services of Colorado (HSSC), under invitation for bids (IFB) No. DAKF23-90-B-0045, step two of a two-step sealed bid acquisition, issued by the Department of the Army for maintenance services for the United States Army Medical and Dental Activities at Fort Campbell, Kentucky. J&J asserts that there is a latent ambiguity in the solicitation relating to the applicable wage rate categories for housekeepers.

We dismiss the protest.

J&J Maintenance originally protested this award on August 15, 1990, and supplemented it on August 22, generally alleging that the agency conducted improper discussions with HSSC under step one of the two-step sealed bid acquisition (request for technical proposals (RFTP) No. DAKF23-90-R-0301) and that HSSC did not meet the minimum staffing requirements. On December 19, our Office dismissed that protest in part and

050716 / 143259

denied it in part. J&J Maintenance, Inc., B-240799;
B-240802, Dec. 19, 1990, 90-2 CPD ¶ 504.

On December 28, J&J Maintenance filed this "new" protest, now alleging that HSSC's low bid is based on a latent ambiguity in the solicitation's specifications relating to the use of Housekeeper I and Housekeeper II wage rates, \$5.80 per hour and \$6.19 per hour, respectively. J&J Maintenance alleges that the agency sought reclassification by the Department of Labor (DOL) of the housekeeping employees to the lower rate under J&J's current contract^{1/} and that this could result in a \$100,000 change in the amount bid.

J&J Maintenance's allegation that there is a latent ambiguity in the solicitation is untimely. It appears that the protester suspected this reclassification when it learned of its competitor's lower bid, and as a result, wrote a letter to DOL on October 23, more than 2 months after it filed a protest in our Office, requesting that the DOL provide "written documentation as to any and all decisions" concerning reclassification of the housekeeping employees on its current contract. The protester never raised this issue during our consideration of its August protest; only after we denied its earlier protest did it assert this "new" ground of protest. By J&J Maintenance's own accounts its belief that the DOL reclassified the housekeeping position was confirmed on December 12, yet J&J did not protest this until December 28--11 working days later.

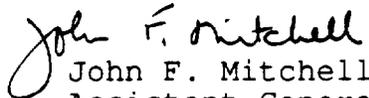
Our regulations do not contemplate the piecemeal presentation of arguments or information relating to a protest. Sun Enters., B-221438.2, Apr. 18, 1986, 86-1 CPD ¶ 384. Our Bid Protest Regulations were designed to provide equitable procedural standards so that all parties have a fair opportunity to present their cases and have them expeditiously resolved without unduly disrupting or delaying the procurement process. Id. It therefore is incumbent upon the protester to diligently pursue pertinent information needed to determine whether a basis for protest exists. Hugo Auchter GmbH, B-217400, July 22, 1985, 85-2 CPD ¶ 64.

The record does not show that J&J Maintenance made reasonable and timely attempts to ascertain whether the housekeeping positions had been reclassified. The protester not only delayed more than 1 month before requesting pertinent information from the DOL, but then waited almost 2 months before checking with DOL on the status of the request. We therefore find that J&J Maintenance did not diligently pursue

^{1/} J&J Maintenance is the incumbent contractor performing these services.

this basis for protest. Sun Enters., B-221438.2, supra. Even if the protester had diligently pursued this information, this protest would still be untimely, since J&J did not file the protest within 10 working days after December 12, the date it states it knew of this "new" protest basis. 4 C.F.R. § 21.2(a)(2) (1990).

The protest is dismissed.


John F. Mitchell
Assistant General Counsel