



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Summitt Forests Inc.
File: B-242991
Date: April 25, 1991

Scott Nelson for the protester,
Allen W. Smith, Department of Agriculture, for the agency,
Behn Miller, Office of the General Counsel, GAO, participated
in the preparation of the decision.

DIGEST

Protest that incomplete Certificate of Procurement Integrity does not render bid nonresponsive is dismissed as untimely where filed more than 10 working days after protester learned that its bid had been rejected for failure to execute the certification.

DECISION

Summitt Forests Inc. protests the rejection of its bid as nonresponsive under invitation for bids (IFB) No. R6-10-91-09, issued by the Forest Service, Department of Agriculture, for tree planting in Rogue River National Forest. Specifically, Summitt Forests argues that its failure to complete the solicitation's Certificate of Procurement Integrity does not render its bid nonresponsive. Summitt Forests also contends that the procurement integrity certification requirement is ambiguous.

We dismiss the protest.

The IFB was issued on December 14, 1990, and required each bidder to submit a signed Certificate of Procurement Integrity pursuant to Federal Acquisition Regulation § 52.203-9; at the January 14, 1991, bid opening, four of the six bidders--including the protester--failed to execute the Certificate of Procurement Integrity. By letter dated January 18, the contracting officer notified each of these four bidders that the incomplete certification required rejection of its bid as nonresponsive; Summitt Forests, the low bidder, received notice of this rejection on January 23.

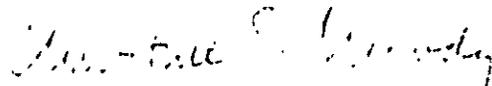
On January 31, the contracting officer awarded the contract to Hoedad's, Inc.; unsuccessful bidders--including those who had submitted nonresponsive bids--were notified of the award by

letter dated February 1. On February 19, our Office received the instant protest.

Our Bid Protest Regulations contain strict rules requiring timely submission of protests; these timeliness rules reflect the dual requirements of giving parties a fair opportunity to present their cases and resolving protests expeditiously without unduly disrupting or delaying the procurement process. Air Inc.--Request for Recon., B-238220.2, Jan. 29, 1990, 90-1 CPD ¶ 129. Under these rules, a protest based on other than an apparent solicitation impropriety must be filed within 10 working days after the protester knows or should know the protest basis. 4 C.F.R. § 21.2(a)(2) (1991); Moran Constr. Co., B-241474, Jan. 7, 1991, 91-1 CPD ¶ 16. Here, Summitt Forests was informed on January 23 that its failure to complete the solicitation's Certificate of Procurement Integrity rendered its bid nonresponsive; to be timely, Summitt Forests should have protested its rejection by February 6, within 10 days of this notification. Since the protest was not filed until February 19, it is untimely.^{1/}

To the extent that Summitt Forests is challenging the certification requirement as ambiguous, the protest is similarly untimely. The Certificate of Procurement Integrity was clearly set forth as a requirement of the solicitation; our timeliness rules require that a protest based upon an alleged solicitation impropriety apparent from the face of the solicitation be filed prior to bid opening. 4 C.F.R. § 21.2(a)(1); Transportation Operations Research Inst., B-242175, Jan. 3, 1991, 91-1 CPD ¶ 9. Since Summitt Forests failed to protest this issue prior to the January 14 bid opening, we will not consider this ground of protest.

The protest is dismissed.


Christine S. Melody
Assistant General Counsel

^{1/} In any event, we note that a bidder's failure to complete a solicitation's Certificate of Procurement Integrity renders its bid nonresponsive since completion of the certificate imposes material legal obligations upon the bidder to which it is not otherwise bound. See Mid-East Contractors, Inc., B-242435, Mar. 29, 1991, 91-1 CPD ¶ ____.