

Miller
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Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: A-1 Stevens Van Lines, Inc.

File: B-243358.2

Date: May 20, 1991

Archie H. Stevens for the protester.
Behn Miller, Office of the General Counsel, GAO, participated
in the preparation of the decision.

DIGEST

1. Under the General Accounting Office Bid Protest Regulations, protests based upon alleged improprieties apparent on the face of the solicitation must be filed prior to the time set for the receipt of initial proposals; where, after the solicitation's initial closing date, protester challenges solicitation's evaluation criteria, protest is untimely since evaluation criteria were clearly set forth in the solicitation.

2. The General Accounting Office (GAO) will not review a decision by the Small Business Administration (SBA) that a firm is, or is not, a small business since SBA, not GAO, has conclusive statutory authority to determine matters of small business size status for federal procurements.

DECISION

A-1 Stevens Van Lines, Inc. protests the requirements of request for proposals (RFP) No. GS-04P-90-EWD-0118, issued by the General Services Administration (GSA) for moving and office relocation services in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee. Specifically, A-1 Stevens protests that the solicitation's evaluation criteria are "unrealistic"; additionally, A-1 Stevens challenges the Small Business Administration's (SBA) determination that A-1 Stevens is not a small business concern.

We dismiss the protest.

The RFP was issued as a small business set-aside requirements contract on October 8, 1990; offerors were to provide technical and cost proposals for a 1-year base period and two 1-year option periods. Apparently, when issued, the

solicitation was mistakenly identified as a "sealed bid" on Standard Form 33; on October 22, by amendment No. 0001, GSA corrected this misdesignation to "negotiation" and extended the date for receipt of proposals date to November 8.

Several offerers, including A-1 Stevens, submitted proposals by the November 8 closing date. After reviewing the A-1 Stevens technical proposal, by letter dated January 16, 1991, the contracting officer requested clarification on several points; by letter dated February 1, A-1 Stevens furnished written clarification of its technical proposal to the contracting officer.

After receipt of this clarification, the contracting officer requested a determination from the SBA regarding A-1 Stevens' size status; by decision dated March 5, the SBA determined that A-1 Stevens is not a small business concern. On May 10, A-1 Stevens filed 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. Servicio Internacional de Proteccion Baker, S.A., B-241670, Jan. 22, 1991, 91-1 CPD ¶ 64. Under our timeliness rules, a protest based on alleged improprieties in a solicitation, such as unrealistic evaluation criteria, which are apparent prior to the time for receipt of initial proposals, must be filed before that time. 56 Fed. Reg. 3,759 (1991) (to be codified at 4 C.F.R. § 21.2(a)(1)); Electronic Sys. USA, Inc., B-241254, Jan. 16, 1991, 91-1 CPD ¶ 43. Here, the evaluation criteria were clearly set forth in the solicitation; since A-1 Stevens did not protest these solicitation requirements prior to the November 8 initial closing date, we will not consider this aspect of A-1 Stevens' protest. Id.

Nor will we consider A-1 Stevens protest against the SBA's size status determination. The Small Business Act, 15 U.S.C. § 637(b)(6) (1988), gives the SBA, not our Office, the conclusive authority to determine matters of small business size status for federal procurements. See 56 Fed. Reg. 3,759, supra (to be codified at 4 C.F.R. § 21.3(m)(2)); Ktech Corp.; Physical Research, Inc., B-241808; B-241808.2; Mar. 1, 1991, 91-1 ¶ 237. Accordingly, because our jurisdiction does not

extend to reviews of size determinations, we dismiss this basis of protest. Id.

The protest is dismissed.

Christine S. Melody
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