



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

Decision

Matter of: Image Contracting Inc.

File: B-243023

Date: June 24, 1991

George W. Stringe for the protester.
Paul M. Fisher, Esq., and Gilbert Chong, Esq., Department of the Navy, for the agency.
Katherine I. Riback, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where a protest is initially filed with the contracting agency, a protester may only wait a reasonable amount of time for a contracting agency's response to its protest before filing a protest with the General Accounting Office.

DECISION

Image Contracting Inc. protests the rejection of its bid submitted in response to invitation for bids (IFB) No. N62474-89-B-1207, issued by the Department of the Navy, for the installation of a fire detection system at the Naval Post-graduate School, Monterey, California. The protester argues that its low bid was improperly rejected as erroneous.

We dismiss the protest as untimely.

The IFB was issued on March 26, 1990, for the installation of a fire detection system which includes detectors, pull stations, door closures, fan shut-downs, etc., in Building 220. This building, also referred to as Herrmann Hall, is described in the solicitation as "architecturally and historically sensitive." Because of the status of the building, the solicitation states that any cutting, patching, drilling of holes and other physical work defacing the building shall be kept to a minimum and that "all raceways shall be concealed where possible."

At the bid opening on April 26, six bids were received ranging from Image's low bid of \$93,978 to a high bid of \$309,700.

The government estimate was \$235,755.^{1/} The contracting officer suspected a mistake in Image's bid because of the apparent disparity between it, the government estimate and other bids. Image was requested to submit its bid preparation sheets and a meeting was held, so that Image's bid could be verified. The contracting officer decided that Image's bid was based on misinterpretations of the specifications and rejected it as unreasonably low. Award was made to Central California Electronics, the second-low bidder, on August 8. Image filed an agency-level protest on August 13, complaining of the rejection of its bid. Image waited for the agency's response to its protest, dated February 12, 1991. It then filed its protest with our Office on February 21.

A protester has an affirmative obligation to diligently pursue its protest. Excel Envtl., B-242577, Jan. 28, 1991, 91-1 CPD ¶ 77. A protester cannot delay filing a protest with our Office until it eventually receives a decision from the contracting agency. Rather, a protester may wait only a reasonable time for a contracting agency's response before filing a protest here. Sterling Envtl. Servs., Inc., B-234798, May 12, 1989, 89-1 CPD ¶ 455. In this case, the protester waited 6 months for a response from the agency, during which time the project was substantially completed. In our view, waiting 6 months to file a protest in our Office after its initial protest with the agency simply is not reasonable and we dismiss the protest because of Image's failure to diligently pursue it. Morey Mach. Co., Inc., B-235166, May 16, 1989, 89-1 CPD ¶ 470.



John Brosnan
Assistant General Counsel

^{1/} The original government estimate was \$244,000, but when math errors were corrected, the government estimate was reduced to \$235,755.