



Comptroller General
of the United States

43513

Washington, D.C. 20548

Decision

Matter of: Geronimo Service Co.

File: B-255528.5

Date: May 20, 1994

DECISION

Geronimo Service Co. requests reconsideration of our November 3, 1993, dismissal of its protest of the agency's decision to set aside Air Force request for proposals (RFP) No. F64605-93-R-0019 for small businesses. We dismissed the protest on the basis that it was untimely filed.

We deny the request.

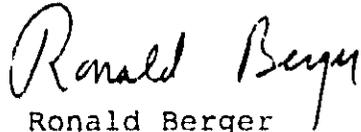
In its protest, Geronimo challenged the decision to set the requirement aside for small businesses, arguing that the 100 percent performance bond requirement was so high that it was unlikely that small business concerns with gross annual receipts within the stated limit (\$13.5 million) could compete. Geronimo concluded that there could not have been a reasonable expectation that the Air Force would receive offers under the solicitation from at least two responsible small business concerns, and that the set-aside therefore was improper. See Federal Acquisition Regulation (FAR) § 19.502-2.

We summarily dismissed the protest as untimely because the protester knew of the 100 percent bonding requirement and the \$13.5 million gross receipts limit from the face of the RFP, but did not file its protest objecting to this requirement until November 1, that is, after the October 29 closing date. Under our Bid Protest Regulations, a protest based on alleged improprieties apparent on the face of a solicitation must be filed with the contracting agency or our Office prior to the initial closing date for submission of proposals. 4 C.F.R. § 21.2(a)(1) (1993); see Engelhard Corp., B-237824, Mar. 23, 1990, 90-1 CPD ¶ 324.

In its reconsideration request, Geronimo maintains that it had no knowledge of its protest ground until October 25, when a small business requested that Geronimo perform a portion of the RFP's required work as a subcontractor; only then was it aware of the probable bid amount (\$6,000,000) and the difficulties small businesses would have meeting the bonding requirement based on this bid amount.

Geronimo's argument does not warrant reconsidering the matter since, by its own admission, Geronimo knew of the alleged solicitation impropriety prior to the October 29 closing date. As stated in our November 3 decision, Geronimo therefore was required to protest prior to the closing time on this date. Because it did not do so, its protest against the performance bond requirement clearly was untimely. Alfa-Laval Separation, Inc., B-250065, Jan. 4, 1993, 93-1 CPD ¶ 1.

The request is denied.



Ronald Berger
Associate General Counsel