

Williams
152028



Comptroller General
of the United States

525276

Washington, D.C. 20548

Decision

Matter of: Steelcase, Inc.

File: B-257461

Date: June 28, 1994

DECISION

Steelcase, Inc. protests the rejection of its offer and the subsequent award to Haworth, Inc. under request for proposals (RFP) No. 3FN0-93-S206-N. The RFP was issued by the General Services Administration (GSA) as a brand name or equal procurement for a quantity of office chairs. Steelcase essentially contends that the agency improperly found its offer technically unacceptable and improperly made award to a higher-priced offeror.

We dismiss the protest as untimely because it was filed more than 10 days after the protester knew, or should have known, of the basis for its protest.

Our Bid Protest Regulations contain strict rules requiring timely submission of protests. Under these rules, protests not based upon alleged improprieties in a solicitation must be filed no later than 10 working days after the protester knew, or should have known, of the basis for protest, whichever is earlier. 4 C.F.R. § 21.2(a)(2) (1993). Here, after best and final offers (BAFOs) were evaluated, GSA determined that Steelcase's proposed "or equal" fabrics did not meet the RFP's stated salient characteristics and therefore found its BAFO technically unacceptable. By letter dated April 1, 1994, GSA identified the fabric samples which were not equivalent to the name brand and provided the specific differences between the proposed fabrics and the salient characteristics listed in the solicitation. In that letter, GSA informed Steelcase that its BAFO was rejected and would not be further considered.

GSA has furnished information to our Office which shows that Steelcase received a copy of the April 1 letter that same day by telefacsimile transmission and the original of that letter on April 7. Since Steelcase knew that its BAFO was rejected and the reasons therefor, it was required to protest the agency action within 10 working days of April 1.

Steelcase argues, however, that it only "ascertained the basis of [its] protest" when the firm received GSA's response to its Freedom of Information Act (FOIA) request on May 18. According to the protester, this information revealed that it had submitted the lowest-priced offer and that the agency had made award at a significantly higher price. The protester states that its protest to our Office was filed on June 1, 9 working days after its receipt of the FOIA information, and should be considered on the merits.

Contrary to the protester's assertions, the protest submission confirms that its protest concerns the agency's determination that the firm's offer was technically unacceptable.¹ Obviously, Steelcase had actual knowledge of this basis for protest as early as April 1, when it received GSA's letter.

Finally, Steelcase argues that we should consider its protest under the "significant issue" exception to our timeliness rules. 4 C.F.R. § 21.2(c). We decline to do so. Our 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.--Recon., B-238220.2, Jan. 29, 1990, 90-1 CPD ¶ 129. In order to prevent those rules from becoming meaningless, exceptions are strictly construed and rarely used. Id. Application of the "significant issue" exception to our timeliness rules is limited to untimely protests that raise issues that have not been considered on the merits in a previous decision and are of widespread interest to the procurement community. See, e.g., DynCorp., 70 Comp. Gen. 38 (1990), 90-2 CPD ¶ 310. Steelcase's protest of the agency's rejection of its offer as technically unacceptable does not meet this standard.

The protest is dismissed.


 Michael R. Golden
 Assistant General Counsel

¹A technically unacceptable proposal cannot be considered for award even if the proposal is the lowest-priced offer, see Color Ad Signs and Displays, B-241544, Feb. 12, 1991, 91-1 CPD ¶ 154. Thus, Steelcase's subsequent discovery that it had submitted the low offer does not change our view that its protest of the rejection of its technical proposal as unacceptable was not filed timely.