



Comptroller General
of the United States
Washington, D.C. 20547

Decision

Matter of: Debbie Gaurmer
File: B-257424
Date: July 25, 1994

DECISION

Debbie Gaurmer protests the award of a contract by the Department of Agriculture, Farmers Home Administration (FmHA), under solicitation No. 05-00-4-012, which sought bids for interest credit renewal services.

Debbie Gaurmer was an incumbent interest credit renewal contractor for FmHA in Colorado. In January of 1993, Ms. Gaurmer received the solicitation package from FmHA; because the package contained a cover sheet that (incorrectly) identified the solicitation as one for property management services, Ms. Gaurmer did not read the package since she was not interested in providing such services. Ms. Gaurmer learned of the error after bid opening in February of 1993, when FmHA asked why she had not bid. Ms. Gaurmer at that point opened and read the solicitation package she had received in January, and then protested to the agency. On March 7, 1994, FmHA denied Ms. Gaurmer's protest. Ms. Gaurmer then protested to us that she had been improperly precluded from bidding.

We must dismiss the protest as untimely. Our Bid Protest Regulations contain strict rules requiring timely submission of protests. Where a protest initially has been filed with a contracting activity, any subsequent protest to our Office, to be considered timely, must be filed within 10 working days of "actual or constructive knowledge of initial adverse agency action." 4 C.F.R. § 21.2(a)(3). The term "adverse agency action" is defined in our Bid Protest Regulations as any action or inaction on the part of a contracting agency which is prejudicial to the position taken in a protest filed with the agency. 4 C.F.R. § 21.0(f); Consolidated Indus. Skills Corp., B-231669.2, July 15, 1988, 88-2 CPD ¶ 58. The term "filed" under our Bid Protest regulations means actual "receipt of the protest or other submissions" in our Office. 4 C.F.R. § 21.0(g).

Our Bid Protest Regulations state that:

"Protests must be writing and addressed as follows: General Counsel, General Accounting Office, 441 G Street, N.W., Washington, D.C, 20548, Attention: Procurement Law Control Group."

Protesters who do not address their protests in this way run the risk that the submission will not be routed to the Procurement Law Control Group and will ultimately not be received there within the time limits specified in the regulations. CD-Tabco Prods., Inc., B-252637.2, Apr. 12, 1993, 93-1 CPD ¶ 310.

Ms. Gaurmer's letter to our Office was misaddressed to:

"U.S. General Accounting Office
General Government Division - Claims
441 G Street, NW, Room 5047
Washington, DC 20548"

As a result, the same thing that happened in CD-Tabco happened here--the protest was routed to other than the Procurement Law Control Group and was not received at the appropriate location until well after the 10-day period for protesting had elapsed.

We note that the address used by Ms. Gaurmer was furnished to her in the agency letter denying her protest. While it is unfortunate that FMHA provided Ms. Gaurmer with incorrect information, Ms. Gaurmer, as a matter of law, was not thereby excused from complying with the protest regulations. The Regulations are published in the Federal Register and Code of Federal Regulations and protesters by law are charged with constructive notice of their contents. Domation, Inc., B-228221, Sept. 28, 1987, 87-2 CPD ¶ 311. Ms. Gaurmer therefore is presumed to be aware of the correct address and must bear the consequences of using an incorrect address, even where the incorrect address was furnished by the contracting officer. Bio-Temp Scientific, Inc.--Recon., B-231358.2, June 10, 1988, 88-1 CPD ¶ 558.

The protest is dismissed.


Ronald Berger
Associate General Counsel