



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

Decision

Matter Of: Allied Sanitation, Inc.

File No.: B-259502

Date: December 12, 1994

DECISION

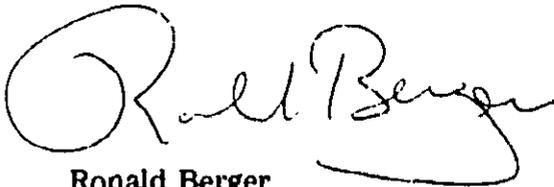
Allied Sanitation, Inc. protests the award of a contract to Rutigliano Paper Stock Inc. by the Department of the Interior under solicitation No. 1443IB177094003. Allied alleges that Rutigliano is not a responsible contractor.

We dismiss the protest.

A determination that a bidder is capable of performing a contract is based, in large measure, on subjective judgments which generally are not susceptible to reasoned review. Thus, an agency's affirmative determination of a contractor's responsibility will not be reviewed by our Office absent a showing of possible fraud or bad faith on the part of procurement officials, or that definitive responsibility criteria in the solicitation may have been misapplied. 4 C.F.R. § 21.3(m)(5); King-Fisher Co., B-236687.2, Feb. 12, 1990, 90-1 CPD ¶ 177. Neither situation exists in this case.

Moreover, the protest appears to be untimely. Our Bid Protest Regulations contain strict rules requiring timely submission of protests. Under these rules, protests based on alleged improprieties in a solicitation must be filed prior to bid opening or the time established for receipt of proposals. 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). Further, our Regulations provide that a matter initially protested to the agency will be considered only if the initial protest to the agency was filed within the time limits for filing a protest with our Office. 4 C.F.R. § 21.2(a)(3); Tandy Constr., Inc., B-238619, Feb. 22, 1990, 90-1 CPD ¶ 206.

Here, bid opening occurred on September 16, 1994, where it was announced that Rutigliano was the apparent low bidder. By letter of September 30, the agency notified the unsuccessful bidders of the award. Allied's protest to the agency was dated October 17, but was not received by the agency until October 25, which would appear to be more than 10 working days after Allied knew of the award to Rutigliano. Thus, as the protest to the agency appears to be untimely, the subsequent protest to our Office is not for consideration.

A handwritten signature in cursive script that reads "Ronald Berger". The signature is written in black ink and is positioned above the printed name and title.

Ronald Berger
Associate General Counsel