

Van Schaik



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Century 21 Manning-Schaaf Co., Realtors

File: B-270289

Date: November 14, 1995

DECISION

Century 21 Manning-Schaaf Co., Realtors (Manning) protests the failure of the Department of Housing and Urban Development (HUD) to provide the firm with a copy of request for proposals (RFP) No. H03R95016200000, for real estate asset management services for five geographical areas in western Pennsylvania.

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.

The RFP was issued on May 19, 1995, with a June 20 closing date for receipt of proposals. The RFP was later amended to extend the closing date to July 20. On July 20, Manning telephoned the agency and requested a copy of the RFP and was informed that the closing date for proposals was that day, July 20. Although several times Manning orally requested that the agency extend the time for submission of proposals, and HUD denied each request, Manning did not protest to the agency. Manning finally filed a protest with this Office on October 24.

Under our Bid Protest Regulations, 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) (1995). Here, Manning was aware of its bases for protest—that it had not been solicited and the agency would not extend the closing date—on July 20, at the latest.¹ Since Manning did not protest until October 24, more than 3 months after July 20, its protest is untimely and will not be considered.

¹Alternatively, the protest is untimely because a May 2 notice of the solicitation in the Commerce Business Daily placed Manning on constructive notice of the RFP and its contents and the firm had a duty to make reasonable efforts to obtain a copy of the solicitation in order to ensure that it was included in the competition. See L&L Oil Co., Inc., B-246560, Mar. 9, 1992, 92-1 CPD ¶ 270.

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Manning requests that its protest be considered in spite of its untimeliness under the "good cause" or "significant issue" exceptions to our timeliness regulations. 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.—Request for 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.

Under the regulations, the good cause exception is reserved for when a compelling reason beyond the protester's control prevents the protester from filing a timely protest and the significant issue exception is reserved for protests concerning issues of widespread interest to the procurement community or that have not previously been considered. Midwest Pipeliners, Inc., B-250795, Jan. 12, 1993, 93-1 CPD ¶ 40. Here, neither exception applies. Manning's failure to file a timely protest was due to its own lack of diligence, not some reason beyond the protester's control, and the issue raised by this protest—the failure to solicit a firm when the solicitation is synopsisized in the CBD—is not of widespread interest to the procurement community.

The protest is dismissed.

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