



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Robbins-Gioia, Inc.
File: B-229757
Date: December 28, 1987

DIGEST

Protest is untimely where the protester waited more than 3 months after the date of award of the contract to seek information through the Freedom of Information Act.

DECISION

Robbins-Gioia, Inc., protests the award of a contract to Metier Management Systems, Inc. under request for proposals (RFP) No. F11628-87-R-0006 issued by the U.S. Air Force for an automated project planning and control system.

The protest is dismissed as untimely.

The RFP was issued on January 2, 1987. Robbins-Gioia and Metier were found to be in the competitive range. After best and final offers were received, the Air Force awarded a contract to Metier on May 20, 1987. Robbins-Gioia protested the award of the contract on December 8, 1987.

Our Bid Protest Regulations require protests to be filed not later than 10 working days after the basis of the protest is known or should have been known, whichever is earlier. 4 C.F.R. § 21.2(a)(2) (1987). Robbins-Gioia states in its protest that it first learned the basis of its protest on November 23, 1987, when it received a response to its November 2, 1987, Freedom of Information Act (FOIA) request to the Air Force.

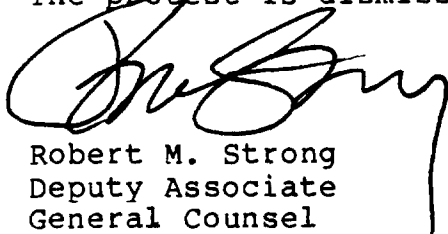
Where a protest is based on information disclosed pursuant to FOIA, the protest will be considered timely if it is filed within 10 working days after the information is received, provided that the protester diligently pursued the release of the information under FOIA. Troglodyte Society, Inc., B-227407 et al., June 25, 1987, 87-1 C.P.D. ¶ 632.

C-40916

Robbins-Gioia waited more than 3 months after contract award before filing its FOIA request. A protester's failure to pursue its protest by seeking within a reasonable time the information which reveals the basis for protest requires rejection of the protest as untimely. See J&J Maintenance Inc., B-223355.2, Aug. 24, 1987, 87-2 C.P.D. ¶ 197, in which we held a protest untimely because the protester did not file its FOIA request until more than 7 weeks had passed after notice of the cancellation of the solicitation.

Since Robbins-Gioia did not file its FOIA request until more than 3 months after the date of award of the contract, its protest is untimely.

The protest is dismissed.



Robert M. Strong
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General Counsel