



The Comptroller General
of the United States

Washington, D.C. 20548

Morrow

Decision

Matter of: Atrium Building Partnership

File: B-230774

Date: June 13, 1988

DIGEST

Where protester's allegations involving the General Services Administration Fire Safety Regulations and the fire safety deficiencies in the protester's building were previously considered in a recent decision, protester should have known its basis of protest after being informed of the same fire safety deficiencies during discussions with the agency in this procurement. Therefore, protest filed more than 10 working days after discussions and call for best and final offers is untimely.

DECISION

Atrium Building Partnership protests the evaluation of its proposal under solicitation for offers (SFO) No. MOR70374, issued by the General Services Administration (GSA), for the lease of between 7,200 and 7,400 square feet of office space in Eugene, Oregon. Atrium contends that GSA improperly determined that the building it offered contained certain fire safety deficiencies.

We dismiss the protest as untimely.

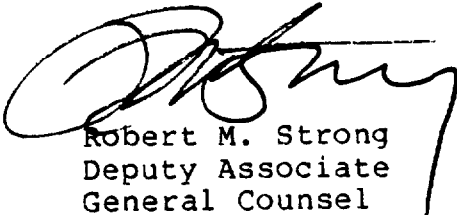
GSA reports that Atrium was specifically advised of the fire safety deficiencies in its building during oral discussions on February 11, 1988, and further that the fire safety deficiencies and the other weaknesses in its initial offer were reiterated to Atrium in the agency's letter, dated February 23, 1988, requesting its best and final offer (BAFO) by March 10, 1988. Atrium did not submit a BAFO but protested to our Office on March 21, 1988.

Our Bid Protest Regulations require that protests be received in our Office not later than 10 working days after the basis for the protest is known or should have been known, whichever is earlier. See 4 C.F.R. § 21.2(a)(2) (1988). Atrium raises the same allegation here, that GSA did not properly follow the GSA Fire Safety Regulations, PBS 5900.2B, in determining the fire safety of its building, as

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it did in a recent decision involving GSA. See Atrium Building Partnership, B-228958, Nov. 17, 1987, 67 Comp. Gen. ____, 87-2 CPD ¶ 491, aff'd, Atrium Building Partnership--Request for Reconsideration, B-228958.2, Dec. 20, 1987, 87-2 CPD ¶ 645. Since the SFO required the leased space to comply with the same fire safety regulations and Atrium offered the same building which GSA determined to contain the same fire safety deficiencies, we find that Atrium should have known the basis of its protest after discussions on February 11 and the call for a BAFO on February 23. Accordingly, we find that the protest which was not received in our Office until March 21, 1988, is untimely.

The protest is dismissed.



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General Counsel