



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Hartford Construction Corp.

File: B-235642.2

Date: August 29, 1989

DIGEST

Protest challenging responsiveness of two low bids based on evidence obtained in agency's report is dismissed as untimely because the protester failed to diligently pursue the information by examining the bid documents 3 months prior to its receipt of agency's report.

DECISION

Hartford Construction Corp. protests the award of a contract to any other bidder under invitation for bids (IFB) No. GS-01P-89-BX-C-0031, issued by the General Services Administration (GSA) for door repairs and emergency lighting at the J.W. McCormack Post Office and Courthouse Building in Boston, Massachusetts.

We dismiss the protest as untimely.

Immediately upon conclusion of the April 19, 1989, bid opening, Hartford's president asked to review the bid documents accompanying the two low bids. According to GSA, the contract specialist denied this request, with the approval of GSA's legal counsel, in order to insure that no confidential information contained in these documents would be released. After reviewing the regulations governing the release of bid information and determining that the information in the bid documents was in fact releasable, the contract specialist then telephoned Hartford's president, who had already left the bid opening site, leaving a message that he could now examine the bid documents. Although this message was left within an hour of bid opening, Hartford's president did not receive it until 6:30 p.m., after the close of business. Hartford's president contacted GSA the day following bid opening and received another invitation to inspect the bid documents; however, he declined to do so.

In its original protest to our Office, Hartford argued that the bid documents should have been made available for immediate examination at bid opening and since they were

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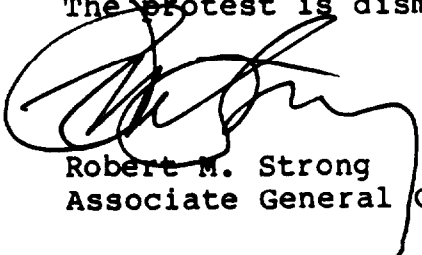
not, all bids should be rejected. Even though we agreed with Hartford to the extent that it argued that GSA should have allowed the protester to inspect the bid documents upon its request, we saw no basis to disturb the award under the IFB since Hartford did not present any evidence indicating that it suffered any prejudice as a result of the agency's initial refusal to allow public examination of the bid documents and the protester in fact was offered access to these documents within an hour after bid opening. Hartford Constr. Corp., B-235642, July 7, 1989, 89-2 CPD ¶ ____.

In its current protest, Hartford argues that the two low bids are nonresponsive. Hartford contends that it would have raised this allegation in its first protest had it been allowed to inspect the bid documents immediately upon the conclusion of bid opening.

Our Bid Protest Regulations require that protests such as Hartford's be filed within 10 days after the basis of the protest is known or should have been known. 4 C.F.R. § 21.2(a)(2) (1988). In order to avoid having its protest dismissed as untimely, a protester cannot sit idly by while awaiting information that provides the basis for its protest, but instead must diligently pursue the information within a reasonable time. Atrium Building Partnership--Second Request for Reconsideration, B-228958.3, May 18, 1988, 88-1 CPD ¶ 466.

Hartford's decision to wait until it received the agency's report on July 3, instead of inspecting the bid documents upon GSA's invitation to do so on April 20, did not constitute diligent pursuit of reasonably available information to challenge the responsiveness of the two low bids. Moreover, the protest is untimely, in any event, because Hartford did not file its protest until July 20, which was more than 10 working days after July 3, the day Hartford states that it received the agency report.

The protest is dismissed.



Robert M. Strong
Associate General Counsel