

Timmerman



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

Decision

Matter of: Hi-Tek Sound & Signal, Inc.
File: B-241168
Date: October 18, 1990

Bradley J. Peterson for the protester.
Barbara R. Timmerman, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

Protest is dismissed as untimely where initial agency-level protest against solicitation specification was filed a month after the closing date for receipt of initial proposals.

DECISION

Hi-Tek Sound & Signal, Inc. protests the terms of request for proposals (RFP) No. DADA09-R-0013, issued by the Department of the Army for a nurse call system at William Beaumont Army Medical Center, El Paso, Texas. Hi-Tek contends that the requirement in the RFP that pocket pagers interface with the call system violates Department of Labor Occupational Safety and Health Administration (OSHA) regulations.

We dismiss the protest.

The RFP was issued April 20, 1990, with proposals due on June 6. According to the protester the closing date was extended to July 16. Hi-Tek states that upon receipt of the solicitation it promptly notified the agency by telephone that it believed the requirement that the nurse call system interface with a pocket paging system was in violation of OSHA standards, 29 C.F.R. § 1910 (1990), and requested that this requirement be rewritten or omitted. The contracting official allegedly responded orally that he understood the issue but that the solicitation would not be altered. Proposals were then submitted as scheduled and award made sometime thereafter. On August 16, Hi-Tek filed an agency-level protest against this specification. By letter dated September 5, the Army informed Hi-Tek that, among other things, its protest was untimely. This protest followed.

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Under our Bid Protest Regulations, protests based on apparent improprieties must be filed with either the contracting agency or this Office prior to the closing date for receipt of initial proposals in order to be considered timely. 4 C.F.R. § 21.2(a)(1). Hi-Tek did not file a protest with the agency until August 16, a month after proposals were submitted. Accordingly, since Hi-Tek's agency-level protest was untimely, Hi-Tek's subsequent protest to our Office is also untimely. 4 C.F.R. § 21.2(a)(3).

Hi-Tek intimates that its pre-closing date telephone conversations with the agency constituted a timely protest. However, an agency-level protest must be made in writing to be considered timely. Tandy Constr. Inc., B-238619, Feb. 22, 1990, 90-1 CPD ¶ 206.

The protest is dismissed.



James A. Spangenberg
Assistant General Counsel