

Gilhooly



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Fire Protection & Code Consultants, Inc.

**File:** B-243070

**Date:** March 7, 1991

Frank Van Overmeiren for the protester.  
Kathleen A. Gilhooly, Esq., Office of the General Counsel,  
GAO, participated in the preparation of the decision.

### DIGEST

Protest against a restrictive geographic specification is untimely filed after the closing date for responses to the Commerce Business Daily (CBD) announcement for Architect/Engineer Services where the restriction was stated in the CBD announcement.

### DECISION

Fire Protection & Code Consultants, Inc. protests the rejection of its qualifications statement under solicitation No. 578-38-91 issued by the Department of Veterans Affairs (VA) for architectural and engineering services for sealing existing penetrations and openings above suspended ceiling areas in the Edward Hines, Jr. Hospital, Hines, Illinois.

We dismiss the protest as untimely.

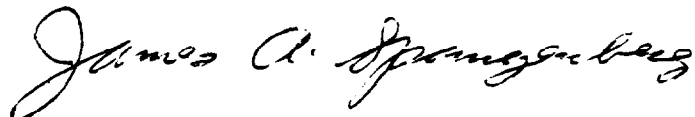
On November 19, 1990, the VA advertised the procurement in the Commerce Business Daily (CBD). The CBD announcement requested that firms experienced in this type of work and located within a 100-mile radius of Chicago, Illinois, submit qualifications statements by December 19, 1990. By letter dated December 28, (received January 4, 1991, by Fire Protection), the VA rejected Fire Protection's response to the solicitation because the firm's location was outside the designated radius. By letter dated January 21, 1991, Fire Protection protested to the agency that this geographic restriction was improper. The VA denied the protest in a letter dated February 4 (received by Fire Protection on February 7). On February 25, Fire Protection filed this protest with our Office.

Fire Protection does not dispute that it did not meet the geographic restriction; instead, Fire Protection claims the restriction is improper. However, since Fire Protection's protest is based on an alleged impropriety apparent from the CBD announcement, it was required to be filed either with the

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contracting agency or our Office prior to the due date for receipt of responses in order to be considered timely under our Bid Protest Regulations. 4 C.F.R. § 21.2(a)(1) (1990); Econo Lodge, B-239912.2, Aug. 15, 1990, 90-2 CPD ¶ 128, aff'd B-239912.5, Oct. 3, 1990, 90-2 CPD ¶ 269. Fire Protection's protest to the agency was filed a month after the closing date of December 19, and with our Office still more than a month later. Since Fire Protection's initial protest to the agency was untimely under our Bid Protest Regulations, its subsequent protest to our Office also is untimely. 4 C.F.R. § 21.2(a)(3); Tierra Eng'g Consultants, Inc., B-237876, Jan. 5, 1990, 90-1 CPD ¶ 29.

The protest is dismissed.

A handwritten signature in cursive script, reading "James A. Spangenberg".

James A. Spangenberg  
Assistant General Counsel