



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

Decision

Matter of: CMC, Inc.
File: B-245664
Date: September 20, 1991

Lester C. Cannain, Esq., for the protester.
Robert C. Arsenoff, Esq., Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

1. Protest allegations regarding matters that could have been raised prior to the closing dates for receipt of initial and final offers, but were not, are dismissed as untimely.
2. General allegations without any detail regarding the conduct of a procurement are dismissed as failing to state a legally sufficient basis of protest.

DECISION

CMC, Inc. protests the conduct of a procurement for computer-related maintenance services under request for quotations (RFQ) No. 56-4487, issued by Sandia National Laboratories on behalf of the Department of Energy.

We dismiss the protest.

The RFQ was issued on May 31, 1991, and CMC submitted a proposal on June 21. Discussions consisting of oral and written requests for clarifications were then conducted; in particular, by letter dated August 2, Sandia requested further clarifications from CMC concerning its proposal and also requested the firm to submit a best and final offer (BAFO) by August 12. The protester responded to the August 2 letter and submitted a timely BAFO. On September 4, Sandia telephonically notified CMC that the laboratory's requirements had been awarded to another firm; this notification was also the subject of a letter to CMC which it received on September 7. This protest was filed on September 16.

In its protest CMC objects to Sandia's use of an RFQ format, complains that the request for BAFOs changed the evaluation criteria and scope of work, suggests that an August 13 letter from Sandia was nonresponsive to the firm's concerns about the

scope of work, and alleges that Sandia failed to engage in meaningful discussions and conducted what was in essence a sole-source procurement under the guise of an RFQ.

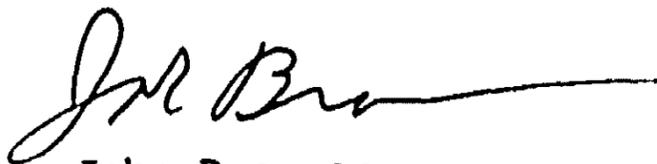
Under our Bid Protest Regulations, protests based on alleged solicitation improprieties which are apparent prior to the closing date for receipt of initial offers must be filed prior to that date to be timely. 4 C.F.R. § 21.2(a)(1) (1991), as amended by 56 Fed. Reg. 3759 (1991); Southeast Med. Alliance, B-242034, Dec. 17, 1990, 90-2 CPD ¶ 495. Thus, CMC's objection to the use of an RFQ format is untimely since it was not filed prior to June 21 when proposals were due. Likewise, if alleged improprieties did not exist in the initial solicitation but are subsequently incorporated into the solicitation process, they must be protested not later than the next closing date set for receipt of proposals. 4 C.F.R. § 21.2(a)(1) (1991), as amended by 56 Fed. Reg. 3759 (1991); Integral Sys., Inc., B-240511, Nov. 23, 1990, 70 Comp. Gen. _____, 90-2 CPD ¶ 419. Thus, CMC's objections to the request for BAFOs modifying the RFQ are untimely since they were not filed by August 12 when BAFOs were due. Also, CMC's concerns about the alleged nonresponsiveness of Sandia's August 13 letter are untimely filed since they were not protested within 10 days after the protester knew of the agency's answer as required by our Regulations. 4 C.F.R. § 21.2(a)(2) (1991).1/

Finally, with respect to the allegations relating to a sole-source procurement and inadequate discussions, our Regulations require protests to set forth a detailed statement of the legal and factual grounds of protest, and those grounds must be legally sufficient. 4 C.F.R. §§ 21.1(c) and (e) (1991). This Regulation contemplates that protesters will, at a minimum, provide either allegations or evidence sufficient, if uncontested, to establish the likelihood of the protester's claim of improper agency action, including some specific

1/ CMC suggests that these matters should be considered under the significant issue exception to our timeliness requirements provided by 56 Fed. Reg. 3759 (1991) (to be codified at 4 C.F.R. § 21.2(c)). The significant issue exception is strictly construed and sparingly used to prevent the timeliness rules from being meaningless. We will invoke it only where the protest raises issues of widespread interest to the procurement community which have not been considered on the merits in prior decisions. Cherokee Electronics Corp., B-240659, Dec. 10, 1990, 90-2 CPD ¶ 467. None of the untimely issues raised by CMC fall into this category.

explanation of the bases for the protester's concerns. See Cajar Defense Support Co., B-240477, Aug. 3, 1990, 90-2 CPD ¶ 100. Neither of CMC's remaining allegations meets our standard for specificity in this regard; no details are provided concerning how the procurement might be an improper sole-source and the record submitted by the protester concerning discussions reveals that they were rather extensive in nature and the protester does not specify the particular area in which the discussions were allegedly deficient.

The protest is dismissed.



John Brosnan
Assistant General Counsel