



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Morrison Knudsen Corporation

File: B-247160

Date: January 7, 1992

Richard White for the protester.
Henry J. Gorczycki, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

Protest that receipt of final amendment to a request for proposals, which was received 3 working days before the proposal due date, did not allow sufficient proposal response time, is untimely where the protest was not filed within 10 days of the date that the protester received the amendment and was apprised the closing date would not be extended.

DECISION

Morrison Knudsen Corporation protests the rejection of its proposal by the Department of the State, Agency for International Development (AID), Indonesia, under request for proposals (RFP) No. 91-03 for a small scale irrigation management project.

We dismiss the protest.

Morrison Knudsen submitted a proposal prior to the original due date of September 19, 1991. AID issued amendment No. 2 on November 1 modifying the RFP's requirements and returned the proposal unopened. The new due date for proposals was December 9. Morrison Knudsen received notification of AID's action and received its unopened proposal on November 12, but states that it did not receive amendment No. 2. Upon Morrison Knudsen's request, AID sent a second copy of the amendment, which the protester states that it received on November 25. On November 27, AID notified Morrison Knudsen that amendment No. 3 was being issued. On December 2, Morrison Knudsen notified AID that it had not received amendment No. 3 and asked whether there would be an extension of the proposal due date. AID informed Morrison Knudsen that it would not extend the due date. Morrison Knudsen states that it received amendment No. 3 on December 4 and sent its proposal the same day. AID received

Morrison Knudsen's proposal on December 12. AID rejected the proposal as late.

Morrison Knudsen does not dispute that its proposal was submitted late. Instead, Morrison Knudsen alleges that AID's actions in amending the RFP and sending the amendments did not allow the protester sufficient time to respond by the due date and requests that its proposal be considered despite its late submission.¹

Morrison Knudsen's protest that it was not afforded sufficient time to submit a proposal concerns an alleged impropriety apparent on the face of the RFP, as amended. Generally, to be timely under our Bid Protest Regulations, such a protest must be filed prior to the next closing date for receipt of proposals. 4 C.F.R. § 21.2(a)(1) (1991). In this case, however, since Morrison Knudsen received the final amendment just 3 working days prior to the December 9 due date, section 21.2(a)(1) is not applicable because the protester did not have a reasonable opportunity to file a protest before the due date. ImageMatrix, Inc., B-243170, Mar. 11, 1991, 91-1 CPD ¶ 270; The Big Picture Co., B-210535, Feb. 17, 1983, 83-1 CPD ¶ 166. Instead, Morrison Knudsen was required to file this protest no later than 10 working days from the time it knew or should have known of its basis for protest. Id.; 4 C.F.R. § 21.2(a)(2).

Since Morrison Knudsen received the final amendment on December 4 and had been apprised by that time that the due date would not be extended, its basis for protest arose no later than December 4. Inasmuch as we received Morrison Knudsen's protest on January 2, 1992, more than 10 working days after December 4, the protest is untimely and will not be considered.

The protest is dismissed.



James A. Spangenberg
Assistant General Counsel

¹To the extent Morrison Knudsen argues that its proposal should not have been rejected as late, we will not consider this contention, given that Morrison Knudsen admits its proposal was submitted late and does not assert that this case falls under any of the enumerated circumstances where late proposals can be considered. See Federal Acquisition Regulation § 15.412.