

McAuliffe



Comptroller General
of the United States

121045

Washington, D.C. 20548

Decision

Matter of: J. Morris & Associates, Inc.

File: B-257039

Date: May 5, 1994

DECISION

J. Morris & Associates, Inc. protests the issuance and advertisement of solicitation No. DACA56-94-B-0038 by the Corps of Engineers for construction services. The protester contends it has a binding contract with the agency for these services.

The protest, as filed with our Office, does not establish a basis for challenging the agency's action and, accordingly, must be dismissed.

The jurisdiction of our Office is established by the bid protest provisions of the Competition in Contracting Act of 1984, 31 U.S.C. §§ 3551-3556 (1988). Our role in resolving bid protests is to ensure that the statutory requirements for full and open competition are met. Brown Assocs. Mgmt. Servs., Inc.--Recon., B-235906.3, Mar. 16, 1990, 90-1 CPD ¶ 299.

To achieve this end, our Bid Protest Regulations require that a protest include a detailed statement of the legal and factual grounds of a protest. 4 C.F.R. § 21.1(c)(4) (1993), and that the grounds stated be legally sufficient. 4 C.F.R. § 21.1(e). These requirements contemplate that protesters will provide, at a minimum, either allegations or evidence sufficient, if uncontradicted, to establish the likelihood that the protester will prevail in its claim of improper agency action. Robert Wall Edge--Recon., 68 Comp. Gen. 352 (1989), 89-1 CPD ¶ 335.

The protester contends that it holds a binding contract with the agency for these services since the company submitted its offer, negotiated a price, and was informed verbally that acceptance of the offer would be sent by facsimile transmission from the agency. The copy of the agency's facsimile notice that the protester attached to its protest, however, merely confirms the amount of the firm's offer and does not evidence acceptance of that offer. Acceptance of a

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prospective contractor's offer must be clear and unconditional. Sevcik-Thomas Builders and Eng'rs Corp., B-215678, July 30, 1984, 84-2 CPD ¶ 128. J. Morris & Associates, Inc. has not shown that a valid contract was created; this protest therefore does not include sufficient factual information to establish the likelihood that the agency here violated applicable procurement laws or regulations. Accordingly, it must be dismissed without further action.

Michael R. Golden

Michael R. Golden
Assistant General Counsel