



Comptroller General
of the United States

1153205

Washington, D.C. 20548

Decision

Matter of: Building Services Unlimited, Inc.

File: B-257054

Date: May 20, 1994

DECISION

Building Services Unlimited, Inc. protests that request for proposals (RFP) No. N62467-93-R-7926, issued by the Department of the Navy for base operation services at the Naval Ordnance Station, Louisville, Kentucky, should be set aside for small disadvantaged business (SDB) concerns.

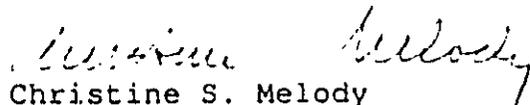
We dismiss the protest.

The RFP was issued on February 18, 1994, and contemplated the award of a multi-year combination fixed-price/indefinite quantity contract. On February 23, Building Services filed an agency-level protest challenging the issuance of the RFP on an unrestricted basis and requesting that the procurement be set aside exclusively for SDB participation. The agency denied that protest by letter dated March 2, received by the protester on March 7. Building Services filed the instant protest with our Office on April 18.

Our Bid Protest Regulations require that protests based upon alleged improprieties in a solicitation which are apparent prior to the time set for receipt of initial proposals be filed with our Office or the procuring agency prior to the closing date for receipt of proposals. 4 C.F.R. § 21.2(a)(1) (1994). Where, as here, an alleged impropriety is timely protested to a contracting agency, a subsequent protest to this Office raising the same issue must be filed within 10 working days of actual or constructive notice of initial adverse agency action on the protest. 4 C.F.R. § 21.2(a)(3). Here, the record shows that Building Services received the agency's March 2 letter denying its protest on March 7. To be timely, therefore, Building Services was required to file a protest raising the SDB set-aside issue with our Office within 10 working days from that date or by March 21. Accordingly, Building Services' protest to our Office, filed more than 1 month after its receipt of the Navy's March 2 letter denying its protest, is untimely and will not be considered. See Commercial Energies, Inc., B-242261.2, Mar. 21, 1991, 91-1 CPD ¶ 312.

Building Services also states that on April 11, it received amendment No. 0001 to the RFP increasing the projected workload. According to the protester, although the amendment extended the closing date for receipt of proposals from April 14 to April 18, that 2-working day extension does not provide sufficient time for offerors to adequately consider the amendment and revise their proposals.

Subsequent to the filing of this protest, the agency granted the relief requested. Specifically, on April 29, the Navy issued amendment No. 0003 to the RFP extending indefinitely the closing date for receipt of proposals. Protests of agency action become academic when contracting agencies grant the relief requested. Steel Circle Bldg. Co., B-233055; B-233056, Feb. 10, 1989, 89-1 CPD ¶ 139. Since we generally do not consider academic questions, the protest is dismissed. See East West Research, Inc.--Recon., B-233623.2, Apr. 14, 1989, 89-1 CPD ¶ 379.


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