

K. Ribick
151915



Comptroller General
of the United States

454:36

Washington, D.C. 20548

Decision

Matter of: Marlen C. Robb & Son Boatyard & Marina, Inc.

File: B-257012

Date: June 14, 1994

DECISION

Marlen C. Robb & Son Boatyard & Marina, Inc. protests the award of a contract to another offeror under request for proposals (RFP) No. DACW65-94-R-0008, issued by the Department of the Army for repairs on the steel hull patrol boat, Craney Island. Robb argues that a geographic restriction in the RFP should be expressed in miles, rather than in terms of "navigable transportation" hours from where the vessel is located to the contractor's facility.

We dismiss the protest.

The agency issued the RFP on February 2, 1994, seeking proposals for a firm, fixed price contract to provide the labor, materials, and supplies necessary to perform the required repairs. The RFP provided that any award would be in the form of an order against the contractor's Master Ship Repair Agreement, and in the event that the successful offeror did not currently hold a Master Ship Repair Agreement with the Norfolk District, it would be necessary to withhold award until such an agreement could be executed. The RFP also provided that the contractor's facility shall be within "eight (8) hours navigable transportation" from the Army Engineer headquarters for the Norfolk district.

By letter dated February 10, Robb requested consideration for a Master Ship Repair agreement with the Norfolk district. The agency sent Robb a copy of the solicitation in response to this letter. The agency received nine offers by the February 28 due date for receipt of initial proposals. The protester submitted the apparent low proposal. Upon review the agency determined that the

locations of Robb's Boatyard and of the Yacht Maintenance Company, the second low offeror, were both more than eight navigable hours from the District's headquarters.¹ On April 1, the agency awarded the job order to the third low offeror, Elizabeth City Shipyard. Robb filed its protest in our Office on April 13.

The protester contends that the geographic restriction in the RFP should be expressed in miles, rather than "navigable transportation" hours, from where the vessel is located to the contractor's facility.²

Our Bid Protest Regulations provide that protests based upon alleged apparent improprieties in an RFP, to be timely, must be filed prior to the closing date for receipt of initial proposals. 4 C.F.R. § 21.2(a)(1) (1994). The time limits set out in our Bid Protest Regulations reflect our attempt to balance what we recognize are often conflicting considerations; resolving bid protest expeditiously without unduly disrupting or delaying the procurement process, and affording protesters a fair opportunity to present their cases. Bollinger Mach. Shop & Shipyard, Inc.--Recon., B-245702.2, Jan. 16, 1992, 92-1 CPD ¶ 87. To that end, we require that allegations of procurement irregularities must be raised when corrective action, if necessary, is most practicable and thus least burdensome on the conduct of the procurement. Id.


¹This determination was based on the fact that the vessel would be towed by the agency from the Norfolk District's headquarters to the contractor's facility at an average speed of five knots per hour.

²Robb also seems to argue that the agency needlessly subjected Robb to the expense of preparing its proposal when, due to its geographic location and the wording of the geographic restriction, it had no chance of obtaining the award.

Upon receipt of the solicitation, it is the prospective offeror's initial responsibility to examine the solicitation to determine whether it can meet the RFP's requirements and to decide whether to submit a proposal. That the agency sent Robb a copy of the solicitation at its own request, and that upon receipt and examination of the solicitation, Robb chose to submit a proposal, does not provide Robb with any basis for protest.

Here Robb's protest concerns an alleged apparent solicitation impropriety in the RFP and, as its protest was not filed until after the closing date for receipt of proposals, it is untimely and not for consideration on the merits.³

The protest is dismissed.


for Paul Lieberman
Assistant General Counsel

³In its comments filed on June 7, Robb alleges, for the first time, that the awardee does not satisfy the requirement that its facility be within 8 hours navigable transportation from Army Engineer Headquarters, Norfolk. This allegation is also untimely, as it was first filed substantially more than 10 days after Robb learned, in early April, of the facts which formed the basis for this protest allegation. 4 C.F.R. § 21.2(a)(2).