



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: M.A.W. Company

File: B-260525

Date: March 23, 1995

DECISION

M.A.W. Company protests the cancellation of solicitation No. FWS1-04122, issued by the Department of the Interior, and requests compensation for the expenses incurred in preparing its low bid. M.A.W. alleges that it should be reimbursed for expenses incurred for preparing its bid and attending the site visit because the agency improperly canceled the solicitation the same day as the site visit and therefore was not acting in good faith. In general, expenses incurred in preparing a bid are not compensable if the solicitation is canceled. The possibility of cancellation prior to award is a risk all bidders assume when they choose to participate in a procurement. The procuring agency, however, does have the affirmative duty to act in good faith in soliciting bids from vendors, and bid preparation costs may be available if the agency is found to have violated that duty.

We will not consider this matter, however, because the protest is untimely. Our Bid Protest Regulations contain strict rules requiring timely submission of protests. Under these rules, protests not based upon alleged improprieties in a solicitation must be filed no later than 10 working days after the protester knew, or should have known, of the basis for protest, whichever is earlier. 4 C.F.R. § 21.2(a)(2). In this regard, a protester's receipt of oral information forming the basis of its protest is sufficient to start the 10-day time period running; written notification is not required. Swafford Indus., B-238055, Mar. 12, 1990, 90-1 CPD ¶ 268. In this case, M.A.W. was advised of the cancellation on September 28, 1994. While M.A.W. requested compensation from the agency, it did not protest the cancellation to our Office until February 23, 1995.

The protest is dismissed.

Michael R. Golden

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Acting Associate General Counsel