



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: International Resources Corporation

File: B-257299.3

Date: March 27, 1995

DECISION

International Resources Corporation (IRC) protests the rejection of its proposal by the Department of the Army under request for proposals No. DAAH03-94-R-0010.

We dismiss the protest as untimely.

Our Bid Protest Regulations require that 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, the agency rejected IRC's proposal by letter of February 9, 1995. That letter advised IRC that its "proposal is no longer considered to have a reasonable chance of being selected for contract award [and that IRC is therefore] eliminated from the competitive range" providing IRC with the reasons for elimination. The instant protest, however, was not filed in our Office until March 9, more than 10 days later.¹

IRC also contends that several amendments issued under the solicitation are "clearly ambiguous and susceptible to two or more reasonable interpretations." This argument is also untimely because it challenges an alleged impropriety in the solicitation, incorporated after initial submission of offers, that should have been protested before the next closing date after the change was made to the solicitation. Protests based upon alleged improprieties in a solicitation which are apparent prior to the closing date for receipt of proposals must be filed prior to the time for closing. 4 C.F.R. § 21.2(a)(1). This rule includes challenges to alleged improprieties

¹We note that IRC received, due to an administrative error on the part of the agency, a letter dated February 23, 1995, addressed only as "Dear Offerors." This letter referenced previously held discussions and requested best and final offers. IRC knew that discussions were not held with it and that it, in fact, had previously been eliminated from the competitive range by letter of February 9, as stated above. Therefore, it was not reasonable for IRC to assume that it had been placed back in the competitive range when it had already been told that "further revisions will not be considered," and that IRC "will not be considered for award," and no discussions were held with it.

which did not exist in the initial solicitation but which are subsequently incorporated into the solicitation. In such cases, the solicitation must be protested not later than the next closing date for receipt of proposals following the incorporation. NASCO Aircraft Brake, Inc., B-237860, Mar. 26, 1990, 90-1 CPD ¶ 330.

The protest is dismissed.



Michael Golden
Acting Associate General Counsel