



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Ed Fields
File: B-261359
Date: May 12, 1995

DECISION

Ed Fields protests the award of a contract to National Enterprise, Ltd. by the Department of the Agriculture under solicitation No. R6-1-95-206. Ed Fields states that the contract specifications and award "violate and infringe upon the protected patent rights of Ed Fields and Tilth, Inc. under [a U.S. patent]."

A patent holder's remedy for any alleged government violation of its patent rights, resulting from a government procurement, is a suit for money damages against the government before the Court of Federal Claims. 28 U.S.C. § 1498 (1988 and Supp. V 1993). Consequently, that forum, not our Office, considers allegations of possible patent infringements in connection with procurement actions. Diversified Technologies: Almon A. Johnson, Inc., B-236035, Nov. 6, 1989, 89-2 CPD ¶ 427.

To the extent Ed Field argues that the specifications in the solicitation contain proprietary or patented material, this argument is untimely raised. Our Bid Protest Regulations contain strict rules requiring timely submission of protests. These rules specifically require that protests based upon alleged improprieties in a solicitation which are apparent prior to the closing date for receipt of initial proposals must be filed prior to the closing time. 4 C.F.R. § 21.2(a)(1); Engelhard Corp., B-237824, Mar. 23, 1990, 90-1 CPD ¶ 324.

We are therefore closing our files on this matter.

Michael R. Golden
Michael R. Golden
Acting Associate General Counsel