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Decision

Matter of: ProSource360 Consulting Services, Inc.

File: B-424386

Date: June 4, 2026

William A. Shook, Esq., The Law Offices of William A. Shook PLLC, for the protester.
Alexzina Taylor Wilks, Esq., Department of the Army, for the agency.
Kasia Dourney, Esq., and Alexander O. Levine, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

Protest challenging adequacy of a solicitation synopsis is dismissed as untimely where protest was not filed before the due date for receipt of proposals.

DECISION

ProSource360 Consulting Services, Inc., a small business of Washington, D.C., challenges the terms of request for proposals (RFP) No. W911QY-26-R-A007, issued by the Department of the Army for materiel fielding and medical liaison support services. The protester contends that the synopsis of the solicitation posted on SAM.gov failed to identify the requirement as a small business set-aside and, as such, the agency denied ProSource the opportunity to compete. ProSource also alleges that the Army used an improper form for the solicitation, instead of the required standard form (SF)1449 that denotes a commercial services requirement.

We dismiss the protest.

BACKGROUND

On February 18, 2026, the Army posted a synopsis of the solicitation on SAM.gov, announcing its intention to procure various materiel fielding and medical liaison support services. Req. for Dismissal, Tab 4, SAM Synopsis. As relevant here, in the classification section of the synopsis, the “original set aside” designation was left blank

instead of indicating that the requirement was procured as a small business set-aside.¹ *Id.* at 1; Agency Resp. to Req. for Add'l Briefing at 2.

Also on February 18, the agency published the solicitation for the requirement, with a due date for proposal submission of March 23. Req. for Dismissal, Tab 5, RFP at 1. The RFP incorporated by reference Federal Acquisition Regulation (FAR) clauses 52.219-6, *Notice of Total Small Business Set-Aside*, and 52-219-8, *Utilization of Small Business Concerns*. RFP at 44.

On or about March 21, Enterprise Resource Planning International, LLC (ERP),² a large business, submitted a timely proposal in response to the solicitation. Req. for Dismissal, Tab 6, Email from ERP--Submission of Proposal. On March 27, 2026, the contracting officer notified ERP that its proposal was considered non-responsive and eliminated from further consideration because the company was not a small business. *Id.*, Tab 7, ERP Notification. ProSource contends that, on March 29, it learned from ERP that the solicitation had been set aside for small business concerns. Protest at 2.

This protest followed.

DISCUSSION

ProSource asserts that the agency failed to properly indicate in the solicitation's synopsis on SAM.gov that the requirement was set aside for small business concerns and, as such, deprived ProSource of an opportunity to compete. Protest at 3-6. The protester alleges that because of the improperly designated synopsis, the Army "failed to ensure that the solicitation documents would be distributed to ProSource360 . . . when searching for small business opportunities." *Id.* at 5. ProSource also argues that the Army used an improper solicitation form instead of the required SF 1449 that denotes a commercial services requirement. *Id.* at 6-7.

The agency requests that our Office dismiss the protest as an untimely solicitation challenge. Req. for Dismissal at 4-6. Specifically, the Army argues that ProSource was aware of the solicitation, and that "[a] reasonable review of the posted solicitation would have revealed . . . that the solicitation contained FAR 52.219-6, *Notice of Total Small Business Set-Aside*, clearly indicating that the solicitation was [a] set-aside." *Id.* at 5. The agency further contends that the absence of a small business set-aside designation in the synopsis, and the clear designation of the RFP as set aside for small businesses

¹ The agency explains that a contract specialist "inadvertently failed [to] make a selection from the 'Original/Updated Set Aside'" drop-down menu, which would have indicated a small business set-aside procurement. Agency Resp. to Req. for Add'l Briefing at 2.

² The Army states that the incumbent contract is performed by ERProSource360, a joint venture comprised of ERP and ProSource360. Req. for Dismissal at 3 n.4.

by inclusion of FAR clause 52.219-6, “created an obvious contradiction that ProSource360 was required to protest prior to the closing time” for receipt of proposals. *Id.* We agree with the agency.

Our Bid Protest Regulations contain strict rules for the timely submission of protests. These timeliness rules reflect the dual requirements of giving parties a fair opportunity to present their cases and resolving protests expeditiously without disrupting or delaying the procurement process. *FD Inc.*, B-422920, B-422920.2, Oct. 4, 2024, at 3. Our regulations require that protests based upon alleged improprieties in a solicitation “which are apparent prior [to] . . . the time set for receipt of initial proposals shall be filed prior to . . . the time set for receipt of initial proposals.” 4 C.F.R. § 21.2(a)(1); *see Colt Def., LLC*, B-406696, July 24, 2012, at 8 (explaining that if there is an ambiguity in the solicitation that is an obvious, gross, or glaring error, it is a patent ambiguity which must be protested prior to the closing date for submission of quotations or proposals to be considered timely).

The protester responds to the dismissal request by arguing that its protest “is based on the violation of the . . . statutory and regulatory requirements” with respect to the synopsis “and not on an impropriety in the [s]olicitation terms.” Resp. to Req. for Dismissal at 1. ProSource insists that it filed its protest “within 10 days ‘after the basis of the protest [was] known or should have been known . . . ,’” *quoting* 4 C.F.R. § 21.2(a)(2), *i.e.*, after learning from its joint venture partner, ERP, that the procurement was set aside for small businesses. *Id.*; Aff. of Chief Executive Officer at 1. The protester rejects the agency’s position that once ProSource became aware of the RFP, it was “obligated . . . to read it in its entirety, where it would have seen the [s]mall [b]usiness [s]et [s]ide status,” asserting that the Army cites “no authority” for this proposition. Resp. to Req. for Dismissal at 4.

The FAR, however, designates SAM.gov as the governmentwide point of entry (GPE), *i.e.*, “the single point where Government business opportunities greater than \$25,000, including synopses of proposed contract actions, solicitations, and associated information, can be accessed electronically by the public.” FAR 2.101. Our Office has consistently explained that protesters are charged with constructive notice of procurement actions published on the GPE. *FD Inc.*, *supra* at 6; *Phoenix Data Sec., Inc. et al.*, B-419956.200 *et al.*, July 10, 2023, at 12 n. 11; *Allosense, Inc.*, B-420201, Dec. 27, 2021, at 5; *Prudential Protective Servs., LLC*, B-418869, Aug. 13, 2020, at 3-4.

The doctrine of constructive notice creates a presumption of notice in law that cannot be rebutted. *Boswell & Dunlap, LLP*, B-416623, Oct. 10, 2018, at 3, *citing Townsend v. Little and Others*, 109 U.S. 504, 511, 3 S. Ct. 357, 27 L. Ed. 1012 (1883) (“Constructive notice is defined to be in its nature no more than evidence of notice, the presumption of which is so violent that the court will not even allow of its being controverted.”). By definition, this doctrine imputes knowledge to a party without regard to the party’s actual knowledge of the matter at issue. *Boswell & Dunlap, supra*.

Here, we find that ProSource had constructive notice of the basis of its protest on February 18, when the agency posted the solicitation on SAM.gov. We reject the protester's contention that it only became aware of its basis for protest after learning from ERP that the solicitation was set aside for small businesses. The protester's argument, in this regard, would render meaningless the doctrine of constructive notice. As our decisions make clear, ProSource's lack of actual knowledge does not excuse the protester from being charged with constructive knowledge of the solicitation and its set-aside provision. *See, e.g., FD Inc., supra* at 7-8 (dismissing protest as untimely where protester was charged with constructive knowledge of the award notice posted on SAM.gov, despite protester's claim of not having actual knowledge).

While ProSource contends that the Army's failure to mark the synopsis as a set-aside procurement deprived the protester of the ability to know that the solicitation had been set aside and to pursue it, we are unpersuaded by the protester's arguments. We note that the challenged classification section of the synopsis was simply blank; it did not identify the solicitation as being not set aside or as set aside. Agency Resp. to Req. for Add'l Briefing at 2 (noting that options for the dropdown menu include "No Set aside used" as well as various set aside options, *e.g.*, "Total Small Business Set-Aside (FAR 19.5)"). Because the synopsis was ambiguous as to whether the solicitation had been set aside, the protester cannot reasonably complain that the synopsis information led it to definitely conclude that the solicitation had not been set aside. Instead, the protester's alleged misunderstanding is more accurately attributed to its failure to properly review the RFP. Accordingly, we do not agree that the protester was misled by the failure of the synopsis to include a set-aside designation.³

Thus, because the agency posted the solicitation on the GPE, ProSource had constructive knowledge of the contents of the solicitation, including its set-aside provisions. *See Excelsior Ambulance Serv., B-421948*, Sep. 27, 2023, at 3 (protester charged with constructive notice of the content of procurement actions, such as a solicitation, that are published on the GPE, even where protester alleged that SAM.gov system failed to send notification of the solicitation posting). Although ProSource asserts that it regularly reviewed small business opportunities and decided to forgo the instant Army procurement based on the allegedly improperly designated synopsis, whether ProSource had actual knowledge of the small business provisions in this RFP does not impact our analysis. Our Office has previously found the presumption of constructive notice applies in circumstances where, for example, the protester had no internet access, or the protester simply did not find or see the notice of solicitation posting. *See, e.g., Boswell & Dunlap, supra*; *see also Specialty Marine, Inc., B-292053*,

³ We note, at any rate, that the protester could still have competed under a full-and-open competition. Accordingly, even if the protester had reasonably believed, based on the synopsis, that the solicitation was not set aside, the protester has failed to explain why it should not be charged with constructive notice of the contents of the solicitation.

May 19, 2003 (even if contractor did not see the notice, doctrine of constructive notice applies).

Finally, we similarly dismiss ProSource's allegation that the Army used an improper solicitation form, instead of the required SF 1449 for commercial services. As with ProSource's challenge to the synopsis, this protest ground challenges an alleged solicitation impropriety that should have been challenged prior to the deadline for the receipt for proposals. 4 C.F.R. § 21.2(a)(1). Accordingly, we dismiss this protest ground as well.

The protest is dismissed.

Edda Emmanuelli Perez
General Counsel