



The Comptroller General
of the United States

Washington, D.C. 20548

Ayer

Decision

Matter of: American Indian Business & Technologies Corp.
File: B-224476
Date: July 23, 1986

DIGEST

1. Protest filed after award contending that solicitation is defective is untimely, since it alleges solicitation improprieties that were apparent before the initial closing date for receipt of proposals.
2. Protest that contracting agency should have amended solicitation after discussions to reflect agency's oral changes to solicitation requirements is untimely when filed after the closing date for best and final offers.
3. Protest based on knowledge obtained by protester during discussions is untimely when filed more than 10 working days after the discussions.
4. Failure to provide prompt notice of award or to schedule a debriefing is a procedural deficiency that does not affect the validity of an otherwise proper award.

DECISION

American Indian Business & Technologies Corp. (AIBT) protests the award of a contract to A.C.R. Co. by the Department of Labor under request for proposals (RFP) No. OAA-86-13 for training and technical assistance services to Indian grantee organizations. AIBT contends that the RFP was defective; Labor improperly failed to amend the RFP; Labor did not fully review the proposals; and Labor improperly excluded an AIBT officer from the negotiation session. AIBT also complains about Labor's delay in issuing notice of an award and in scheduling a debriefing. We dismiss the protest.

AIBT contends that the RFP was vague, misleading, ambiguous, lacked necessary information, and exceeded Labor's minimum needs. This contention constitutes an allegation of solicitation improprieties that were apparent before the closing date for receipt of initial proposals. Our Bid Protest Regulations require that a protest based upon such alleged improprieties be filed before the closing date, 4 C.F.R. § 21.2(a)(1) (1986), in order to enable the contracting agency or our Office to decide an issue while it is most practicable to take effective action where the

036143

circumstances warrant. See Ratcliffe Corp.--Request for Reconsideration, B-220060.2, Oct. 8, 1985, 85-2 C.P.D. ¶ 395. Since AIBT's protest raised these issues after that date, the issues are untimely. Terry B. Armentrout Engineering & Business Consulting, B-222311, May 23, 1986, 86-1 C.P.D. ¶ 485.

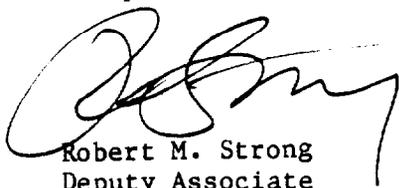
AIBT also contends that Labor made oral changes in its statement of requirements during the June 16, 1986, negotiations with AIBT; the protester maintains that the changes should have been the subject of written RFP amendments. AIBT claims that it objected to Labor's changes during the discussions, but that Labor refused to make any "concession" and simply requested a best and final offer by June 20.

Under our Regulations, AIBT should have protested these allegedly improper oral changes no later than the next closing date for receipt of proposals following their occurrence. 4 C.F.R. § 21.2(a)(1). AIBT therefore had to protest the matter before the June 20 closing date for best and final offers. Since AIBT's protest was filed after the closing date, it is untimely. See Radiation Systems, Inc., B-222585.2, June 6, 1986, 86-1 C.P.D. ¶ _____. As to the fact that AIBT may have objected to the changes during the discussions, an oral complaint to a contracting agency does not constitute a protest. See York International Corp., B-223248, June 17, 1986, 86-1 C.P.D. ¶ _____.

AIBT learned the bases of its next two contentions (Labor's alleged failure to review the proposals adequately and Labor's improper exclusion of an AIBT officer from contract discussions) during discussions on June 16. AIBT observed that Labor did not understand the technical assistance portion of AIBT's proposal, from which the firm concluded that Labor's review of the proposals was deficient. AIBT also learned at that time that Labor would not negotiate with AIBT's president because of the possibility of a conflict of interest. Both contentions are untimely. Our Regulations require that a protest alleging other than solicitation improprieties be filed not later than 10 working days after the basis of protest is known or should have been known. 4 C.F.R. § 21.2(a)(2). Because AIBT learned the bases of its protest on June 16, but did not file the protest until July 15, the contentions are dismissed as untimely.

Finally, AIBT complains that Labor has improperly delayed the issuance of the notice of award and the scheduling of a debriefing. Failure to provide prompt notice is a procedural deficiency that does not affect the validity of an otherwise proper award. Auchter Industries, B-216841, Nov. 30, 1984, 84-2 C.P.D. ¶ 593. Similarly, problems regarding the scheduling of a debriefing do not affect the award. Emerson Electric Co., B-213382, Feb. 23, 1984, 84-1 C.P.D. ¶ 233.

The protest is dismissed.

A handwritten signature in black ink, appearing to read 'R. M. Strong', written in a cursive style.

Robert M. Strong
Deputy Associate
General Counsel