



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Midwest CATV
File: B-233105.6
Date: September 22, 1989

DIGEST

Protest that award should have been made under first round of best and final offers is untimely where filed more than 10 days after protester learned that discussions would be reopened and another round of best and final offers would be held, which provided the basis for protest.

DECISION

Midwest CATV protests the award of a contract to United Satellite Systems (United) under request for proposals (RFP) No. 101-29-88, issued by the Veterans Administration (VA) for 200 TV Satellite Reception Systems. Midwest protests that it should have been awarded the contract under a previous round of best and final offers (BAFOs). We dismiss the protest as untimely.

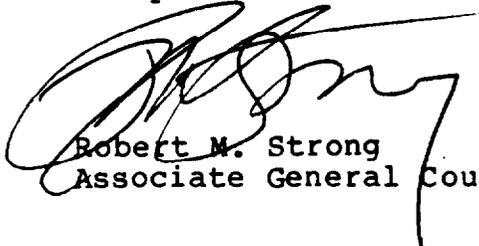
The first round of BAFOs was received by VA on September 26, 1988, and an award was made to another firm, Midwest Communications, on September 29. In response to a protest which was filed by United, VA determined that it had failed to conduct meaningful discussions and, therefore, suspended performance, reopened discussions, and requested another round of BAFOs. Midwest protested to our Office alleging that it was entitled to award under its initial BAFO. We dismissed this protest as untimely under our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1989), because it was filed in our Office more than 10 days after the date on which Midwest learned of VA's decision to reopen discussions, which constituted the basis for its protest. Midwest CATV, B-233105.3, Apr. 4, 1989, 89-1 CPD ¶ 351, aff'd on reconsideration, B-233105.4, July 20, 1989, 89-2 CPD ¶ 64.

In its current protest, Midwest assumes that the award which was finally made to United on August 25, 1989, provides Midwest with its basis for protest. However, Midwest merely

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requests that we consider all of its previously raised allegations and its earlier protest that Midwest is entitled to the award under its initial BAFO. Under these circumstances, the award decision itself has not provided any basis for protest. See URS International, Inc., and Fischer Eng'g & Maintenance Co., Inc., B-232500.5, June 15, 1989, 89-1 CPD ¶ 563; AMBAC Int'l, B-234281, May 23, 1989, 89-1 CPD ¶ 492. Rather, Midwest's protest is untimely because all of the bases for protest concern VA actions which were known by Midwest substantially more than 10 days prior to the date on which the current protest was filed. Accordingly, the protest is untimely and is not for consideration on the merits. 4 C.F.R. § 21.2(a)(2).

The protest is dismissed.



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