

C. Melody



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Clean Florida, Inc.
File: B-233262
Date: October 28, 1988

DIGEST

Protest that solicitation did not accurately reflect actual scope of work required based on protester's inspection of site where work is to be performed is untimely where filed after closing date for receipt of initial proposals. Protester's decision to forgo filing protest before initial closing date based on alleged oral representation by contracting official that any discrepancies between solicitation and actual work to be performed would be addressed in the evaluation process was unreasonable where the statement was clearly inconsistent with the fundamental principle that a contracting agency may not solicit proposals on one basis and make award on another basis.

DECISION

Clean Florida, Inc. protests the award of a contract to any other offeror under request for proposals (RFP) No. DEA-88-R-1429, issued by the Drug Enforcement Administration (DEA) for the destruction of chemicals seized from a clandestine laboratory in Miami, Florida. We dismiss the protest.

The RFP was issued on September 19, 1988, with initial proposals due by September 26. On September 23, a representative of Clean Florida inspected the site where the destruction of chemicals was to take place. Based on that inspection, Clean Florida concluded that DEA's actual needs were not adequately described in the RFP. Clean Florida states that its representative then called the contract specialist to inform her of his conclusion, and was told that the technical requirements of the project would be addressed in the evaluation process. Clean Florida then submitted a proposal by the September 26 due date. On October 3, DEA advised Clean Florida that award had been made to another firm.


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On October 18, Clean Florida filed its protest with our Office, arguing that only its proposal could properly be considered technically acceptable since, as a result of its site visit, it was the only firm which was aware of the actual work required under the RFP. Further, Clean Florida argues that by not awarding it the contract, DEA failed to select the proposal "most advantageous to the government" as required by the RFP.

Under our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (1988), protests based on alleged solicitation improprieties generally must be filed before the closing date for receipt of initial proposals. Here, while Clean Florida frames its protest as a challenge to the award of a contract under the RFP to any other firm, the basis of the protest is Clean Florida's contention that the RFP did not adequately describe the work required. Accordingly, to be timely the protest should have been filed before September 26, the initial closing date. Since it was not filed until October 18, the protest is untimely.

Although Clean Florida recognizes that it was on notice of the alleged defects in the RFP after its site visit on September 23, it states that it did not file a protest before the initial closing date in reliance on the contract specialist's representation that any discrepancies in the scope of work would be addressed in evaluating proposals. Even accepting the protester's interpretation of its conversation with the contract specialist, however, it was unreasonable to forgo filing a protest and instead rely on an oral representation that clearly conflicted with the fundamental principle that a contracting agency may not solicit proposals on one basis and make award on another basis. Westinghouse Electric Corp., B-224492, Aug. 6, 1986, 86-2 CPD ¶ 165.

The protest is dismissed.



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