

GOVERNMENT OF THE DISTRICT OF COLUMBIA
CONTRACT APPEALS BOARD

PROTEST OF:

ST. JOHN'S COMMUNITY SERVICES)	
)	CAB No. P-555
Under RFP No. JA-SC-CS-70086-01)	

For the Protester, St. John's Community Services: David C. Beck, Esq., and Karen S. Lovitch, Esq., Powers, Pyles, Sutter & Verville, P.C. For the Intervenor, District of Columbia Arc, Inc.: Richard E. Ramsay, Esq., Proskauer Rose, LLP. For the District: Howard Schwartz, Esq., Warren J. Nash, Esq., and H. Christopher Malone, Esq., Assistants Corporation Counsel.

Opinion by Administrative Judge Jonathan D. Zischkau, with Chief Administrative Judge Lorilyn E. Simkins and Administrative Judge Phyllis W. Jackson, concurring.¹

OPINION

St John's Community Services challenges a contract award by the Department of Human Services ("DHS") to District of Columbia Arc, Inc. ("Arc"). St. John's argues that DHS violated District procurement law and regulations by: (1) failing to adequately evaluate Arc's cost estimate and price to determine Arc's understanding of the services required and Arc's ability to perform the contract (citing 27 DCMR §1618.2); (2) failing to make a determination that it was in the best interests of the District to reopen discussions after receipt of a first round of best and final offers ("BAFOs") (citing 27 DCMR §1622.3); and (3) failing to include in Arc's contract adequate and sufficient provision for phase-in training and other actions by the incumbent contractor, St. John's, to effect an orderly transition to Arc, the successor (citing 27 DCMR §1900.7). St. John's also argues that DHS's solicitation, evaluations, and award did not comply with federal statutes and regulations, including the Vocational Rehabilitation Act, because DHS allegedly failed to "develop and implement flexible procurement policies and methods that afford eligible individuals meaningful choices among the methods used to procure service" and enable eligible individuals "to exercise informed choice . . . in the selection of . . . the specific vocational rehabilitation services needed . . . [and] the entity that will provide the services." Because St. John's was third in line for award, and has not challenged the evaluation of the second-ranked offeror, it lacks standing to challenge the evaluation and resulting award to Arc. St. John's argument relating to the Vocational Rehabilitation Act and other federal statutory and regulatory provisions is untimely because it was raised after the closing date for receipt of proposals. Accordingly, the protest and amended protest cannot be sustained.

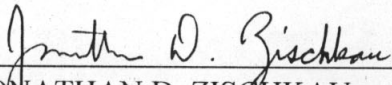
¹ Judge Booker, originally assigned as the presiding judge, resigned from the Board prior to the disposition of this case.

essentially alleges improprieties that were clear on the face of the solicitation and St. John's did not timely protest the solicitation prior to the time set for receipt of initial proposals. See D.C. Code § 1-1189.8(b)(1); *Health Right, et al.*, CAB No. P-507, Oct. 15, 1997, 45 D.C. Reg. 8612, 8630-31 & n.7.

CONCLUSION

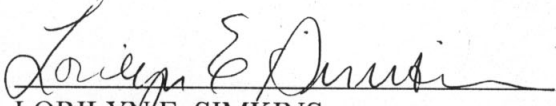
St. John's protest and amended protest are dismissed in part and denied in part.

DATED: March 23, 1999

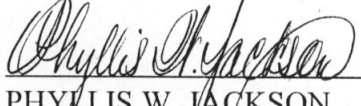


JONATHAN D. ZISCHKAU
Administrative Judge

CONCURRING:



LORILYN E. SIMKINS
Chief Administrative Judge



PHYLLIS W. JACKSON
Administrative Judge