

GOVERNMENT OF THE DISTRICT OF COLUMBIA
CONTRACT APPEALS BOARD

PROTEST OF:

THE METIS GROUP)	
)	CAB No. P-627
Under Solicitation No. 9063-AA-03-1-DD)	

For the Protester: Libby Kavoulakis, *pro se*. For the Government: Howard Schwartz, Esq., and Warren J. Nash, Esq., Assistants Corporation Counsel.

Opinion by Administrative Judge Jonathan D. Zischkau, with Administrative Judges Phyllis W. Jackson and Matthew S. Watson, concurring.

OPINION

The Metis Group has filed a protest of Solicitation No. 9063-AA-03-1-DD issued by the District's Office of Contracting and Procurement ("OCP"), alleging that OCP improperly extended the closing date for proposals to December 9, 1999, and undermined confidence in the selection process by issuing 10 amendments over a 12-month period ending with a second best and final offer request on August 24, 2000. The District filed a motion to dismiss the protest as untimely. The Metis Group has not responded. We dismiss the protest as untimely.

BACKGROUND

On September 20, 1999, the Office of Contracting and Procurement issued the Facility Condition Assessment Request for Proposals in the small business enterprise set-aside market. (District's Motion to Dismiss, Ex. 1). As a result of Amendment Nos. 1-4, and 6 to the RFP, the original closing date for initial proposals of October 15, 1999, was extended to December 8, 1999. (Protest, at 2). OCP received 9 proposals by December 8. (Motion to Dismiss, at 5). On December 27, 1999, OCP issued Amendment No. 7 which retroactively extended the closing date for proposals to December 9, 1999, so that 5 additional proposals that had been received between December 8 and 9, but after the December 8 closing date and time, could be accepted. (Motion to Dismiss, Ex. 1). Thus, OCP had received a total of 14 proposals as of the December 9 closing date. The contracting officer determined that 9 offerors, including The Metis Group, were within the competitive range. (Motion to Dismiss, Ex. 2). OCP issued Amendment No. 8 on June 6, 2000, requesting offerors to extend their proposals for 90 days. (Protest, at 2). On June 20, 2000, OCP issued Amendment No. 9, amending the solicitation and requesting best and final offers ("BAFOs") by June 30, 2000. OCP issued Amendment No. 10 requesting a second round of BAFOs by August 24, 2000. On September 6, 2000, OCP made awards to three offerors. The Metis Group filed its protest on September 21, 2000, challenging OCP's issuing of Amendment 7 on December 27, 1999, which extended retroactively the closing date for proposals from December 8 to December 9, 1999, as well as challenging the lengthy procurement process which saw 10 amendments issued over a 10-month period.

On October 12, 2000, the District filed a motion to dismiss the protest as untimely, pointing out that The Metis Group filed its protest long after it knew or should have known of the bases for its protest. The Metis Group has not responded to the motion.

DISCUSSION

The Procurement Practices Act defines the following deadlines for filing a protest:

(b)(1) A protest based upon alleged improprieties in a solicitation which are apparent prior to bid opening or the time set for receipt of initial proposals shall be filed prior to bid opening or the time set for receipt of initial proposals. In procurements where proposals are requested, alleged improprieties which do not exist in the initial solicitation, but which are subsequently incorporated into this solicitation, must be protested not later than the next closing time for receipt of proposals following the incorporation.

(2) In cases other than those covered in paragraph (1) of this subsection, protests shall be filed not later than 10 business days after the basis of protest is known or should have been known, whichever is earlier.

D.C. Code § 1-1189.8(b). It is clear that the protest must be dismissed as untimely. The Metis Group failed to file its protest either by the various closing dates set by the amendments or within 10 business days from the date that it knew or should have known the bases for its protest. *See, e.g., Commando K-9 Detectives, Inc.*, CAB No. P-472, Jan. 16, 1997, 44 D.C. Reg. 6782.

Accordingly, we dismiss the protest.

SO ORDERED.

DATE: November 2, 2000

JONATHAN D. ZISCHKAU
Administrative Judge

CONCURRING:

PHYLLIS W. JACKSON
Administrative Judge

MATTHEW S. WATSON
Administrative Judge