

GOVERNMENT OF THE DISTRICT OF COLUMBIA
CONTRACT APPEALS BOARD

PROTEST OF:

HORIZONS THERAPEUTIC SERVICES, INC.)	
)	CAB No. P-0663
Under Invitation No. GAGA-2003-B-001)	

For the Protester: Mr. Shawn King, Vice President, Horizons Therapeutic Services, Inc.,
pro se. For the District of Columbia Government: James A. Baxley, Esq., Deputy General Counsel,
District of Columbia Public Schools.

Opinion by Chief Administrative Judge Jonathan D. Zischkau, with Administrative Judge
Matthew S. Watson, concurring.

OPINION

CourtLink Filing ID 1081036

Horizons Therapeutic Services, Inc. (“HTS”) protested the District of Columbia Public Schools’ award of a contract for drug and alcohol screening, physical examination, and medical evaluation services for employees of the District of Columbia Public Schools (“DCPS”). HTS alleges that the contracting officer “did not call a bid opening nor announce the date and time of the bid opening, even though HTS’s representative was there to witness the bid opening” HTS further states that it was the only responsive and responsible bidder. DCPS has moved to dismiss the protest on the ground that HTS’s bid was submitted late and that its protest is also untimely. HTS has not responded to the motion or rebutted the District’s statement of facts. Accordingly, based on the uncontested motion of the District, the protest is dismissed.

BACKGROUND

On August 27, 2002, the DCPS Office of Contracts and Acquisitions issued IFB No. GAGA-2003-B-001 for drug and alcohol screening, physical examination, and medical evaluation services for DCPS employees. (DCPS’s Dispositive Motion in Lieu of Agency Report, filed October 29, 2002, Ex. A). The solicitation provided that bids would be accepted until 2:00 p.m. on September 25, 2002. (Id., Ex. A). The solicitation was also posted on the DCPS website and advertised in the Washington Times. (Id., Ex. B). The Washington Times advertisement indicated that bids were due by 2:00 p.m. on September 25, 2002, as stated in the solicitation. DCPS states that HTS failed to submit a bid by the due date and time and that no representative was present at the time of bid opening. HTS states that it received verbal notice of award of the contract to another bidder on October 2, 2002. HTS filed its protest on October 9, 2002. Beyond claiming that the contracting officer “did not call a bid opening nor announce the date and time of the bid opening, even though HTS’s representative was there to witness the bid opening,” HTS states in its protest that it would demonstrate “in forthcoming correspondence” that the selection and award were flawed. HTS filed no additional documentation with the Board and has not responded to the District’s motion, despite repeated requests from the Board.

DISCUSSION

When a protester fails to respond to a dispositive motion and fails to contradict the factual allegations in the agency's dispositive motion, the Board may treat the motion as conceded and dismiss the protest. Board Rules 307.3 and 307.4. Because HTS has failed to respond to DCPS's dispositive motion, we treat the motion as conceded and dismiss the protest.

SO ORDERED.

DATED: November 29, 2002

/s/ Jonathan D. Zischkau
JONATHAN D. ZISCHKAU
Chief Administrative Judge

CONCURRING:

/s/ Matthew S. Watson
MATTHEW S. WATSON
Administrative Judge