

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES**

WASHINGTON, D. C. 20548

FILE: B-183421

DATE: June 24, 1975

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MATTER OF: Marina Social Security Building Committee

DIGEST:

March 15, 1975, protest against geographical limitation of proposed building site is untimely under 4 C.F.R. § 20.2(a), since basis of protest was known as early as December 27, 1974, but it was not sent until more than 5 working days after February 21, 1975, notification from contracting agency rejecting February 3, 1975, proposal for failing to meet geographical requirement.

The Marina Social Security Building Committee (Committee) protests the proposed location of the new Social Security Administration (SSA) Data Processing Center (Center) at Salinas, California, by the General Services Administration (GSA). By letter dated December 14, 1974, the chairman of the Committee proposed to GSA that the Center be located in Marina, California. By letter dated December 27, 1974, GSA informed the chairman that the geographical selection had been limited to Salinas by SSA, subject to coordination with local governments. On January 17, 1975, GSA advertised in the local newspaper for assignable options for suitable space in Salinas. Offers were required by February 7, 1975.

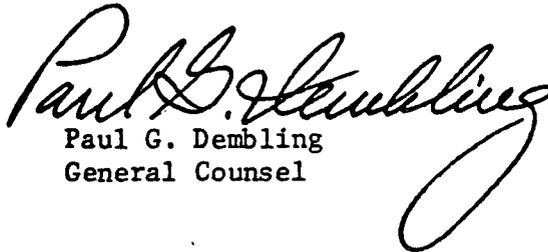
By letter of February 3, 1975, the Committee submitted its offer for space in Marina. On February 21, 1975, GSA informed the Committee that its offer was unacceptable because it did not meet the requirement that the site be located in Salinas. By letter dated February 26, 1975, the chairman of the Committee informed GSA that the Committee did not accept the premise that the site would be restricted to Salinas. On March 11, 1975, GSA responded that SSA had restricted the geographical location and referred future inquiries by the Committee to a specified GSA official. By telegram of March 15, 1975, the protest of the Committee was filed with our Office.

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4 C.F.R. § 20.2(a) (1974) requires that protests based upon alleged improprieties apparent in a solicitation must be protested before the closing date for receipt of proposals to be timely filed. In other cases, the protest must be filed within 5 working days after the basis for protest was known or should have been known, whichever is earlier. If a protest has been filed initially with the contracting agency, subsequent protest to our Office must be made within 5 working days of notification of adverse agency action.

The basis for protest was known to the Committee as early as its receipt of the December 27, 1974, letter from GSA informing it of the geographical limitation for the Center to Salinas. The advertisement in the newspaper on January 17, 1975, was a firm indication of GSA's intent. Yet, the Committee did not protest and submitted a proposal in the face of the continued adverse action of GSA. Even viewing the events in the light most favorable to the Committee, the basis for the protest was clearly communicated by the February 21 letter from GSA rejecting its proposal and no protest was sent to us until March 15, which was more than 5 working days after the latter date.

Consequently, the protest is untimely and will not be considered on its merits.


Paul G. Dembling
General Counsel