

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-187103

DATE: September 29, 1976

MATTER OF: Rack Engineering Co.

61570 97953

DIGEST:

Protest of alleged improprieties in solicitation filed after July 28, 1976, closing date for receipt of initial proposals, is untimely and cannot be considered on merits pursuant to Bid Protest Procedures despite protester's contact with SBA representative prior to July 28, 1976, since GAO does not consider such contact as protest.

By letter dated July 30, 1976, Rack Engineering Co. (Rack) protested to our Office (received August 4, 1976) alleged unreasonable delivery requirements and the absence of a full or partial small business set-aside in request for proposals (RFP) FEFP-C3-22031, issued by the General Services Administration (GSA) on July 2, 1976, in response to Department of the Navy's requirement for cabinets. The closing date for receipt of initial proposals was July 28, 1976.

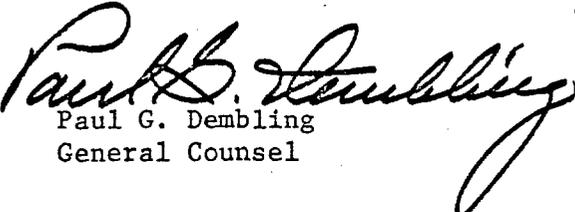
Rack indicates that after the solicitation was issued, it contacted the Small Business Administration (SBA) representative of GSA, who in turn contacted the Navy in an attempt to have the RFP modified, and it was not until July 27 that Rack learned the RFP would not be modified.

Section 20.2(b)(1) of our Bid Protest Procedures, 4 C.F.R. § 20 (1976), provides inter alia that protests based upon alleged improprieties in a solicitation which are apparent prior to the closing date for receipt of initial proposals shall be filed prior to the closing date for receipt of initial proposals.

Clearly Rack is protesting alleged improprieties in the instant RFP which were apparent prior to the closing date for receipt of initial proposals. Consequently, it was incumbent upon Rack to file its protest prior to the July 28, 1976, closing date for receipt of initial proposals. Rack's contacts with the SBA, which was not, we note, the contracting agency, cannot, in our opinion, be viewed as a protest within the meaning of our Bid Protest Procedures, supra.

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Thus Rack's protest, filed with our Office after the closing date for receipt of initial proposals, is untimely and cannot be considered on the merits.


Paul G. Dembling
General Counsel