

01194

DECISION



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

FILE: B-187374

DATE: October 5, 1976

MATTER OF: Allstate Flooring Company, Inc.

DIGEST:

Failure to file protest of cancellation of IFB within 10 days after the basis for protest is known renders the protest untimely under 4 CFR § 20.2(a).

Allstate Flooring Company, Inc. (Allstate) protests the cancellation of invitation for bids DAKF70-76-B-0052 (IFB-0052) issued by the U.S. Army, Fort Richardson, Alaska (Army) for the repair of kitchen cabinets in family housing units and the subsequent issuance of a new substantially identical solicitation DAKF70-76-B-0082 (IFB-0082) in its stead.

Prior to the June 21, 1976, opening of IFB-0052, the Army, in response to an inquiry from a prospective bidder, had issued an amendment to the solicitation which in pertinent part provided the following information:

"On an existing contract for installation of kitchen cabinets at Fort Richardson, Alaska, the contractor is furnishing metal cabinets from St. Charles Mfg., Co., 1611-E Main St., St. Charles, Illinois, 60174. This contract also includes some Government furnished cabinets from Fillip Metal Cabinet Co., 701 N. Albany St., Chicago, Illinois, 60612."

Upon receipt of the amendment Allstate, assuming that the presence of the manufacturers' names in the amendment was of some import, contacted St. Charles and Fillip and learned that Fillip offered a product line which did not meet the specifications set out in the IFB.

When the bids were opened it was apparent to Allstate that the first and second low bids were compiled on the Fillip brand cabinets which did not meet the specifications. Seven days after the opening, on June 28, 1976, Allstate protested to the Army the award

B-187374

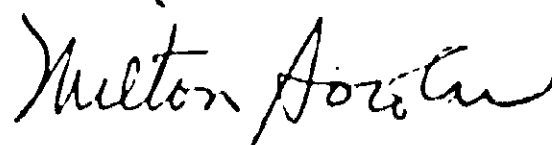
of a contract to any bidder other than itself. By letter of July 16, 1976, the contracting officer canceled IFB-0052 on the ground that such action was in the best interest of the Government and of each bidder concerned. The letter indicated the contracting officer's belief that the amendment had "* * * created sufficient confusion to mislead some bidders into thinking the Government would accept a product which would not comply with the technical provisions." It was further indicated that the Army intended to "re-advertise this requirement in a forthcoming solicitation."

The July 16, 1976, letter from the contracting officer rendered moot Allstate's June 28, 1976, protest by precluding any award under IFB-0052. Further, it gave Allstate notice of the cancellation as well as of the Army's intent to resolicit the requirement.

Our bid protest procedures provide for GAO consideration of complaints initially filed with the contracting agency provided that the initial protest to the agency was filed in a timely manner. 4 CFR § 20.2(a). In this particular case the procedures require a filing with the agency "* * * not later than 10 days after the basis for protest is known or should have been known, whichever is earlier." 4 CFR § 20.2(b)(2).

The record shows that Allstate received the July 16, 1976, cancellation letter on July 19, 1976. However, it was not until August 9, 1976, that Allstate protested to the contracting officer the cancellation of IFB-0052 and the issuance of IFB-0082. Allstate's failure to protest the cancellation and resolicitation within 10 days after July 19, when the basis of its protest was made known to it, renders the protest untimely under our bid protest procedures.

Accordingly, Allstate's September 3, 1976, protest to this Office is dismissed as untimely.


for Paul G. Dembling
General Counsel