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**DECISION**



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

FILE: B-187183

DATE: November 16, 1976

MATTER OF: R. A. Miller Industries, Inc.

**DIGEST:**

Protest of alleged impropriety in solicitation is untimely under GAO Bid Protest Procedures and not for consideration since it was not filed until after closing date for receipt of initial proposals. Fact that protester may have been unaware of procedures does not excuse untimely filing since Bid Protest Procedures have been published in Federal Register and protester is on constructive notice of contents.

R. A. Miller Industries, Inc. (Miller) protests the proposed award of a contract to J. & H. Smith Mfg. Co. Inc. (Smith) under request for proposals (RFP) DSA900-76-R-2044, issued by the Defense Supply Agency (DSA), Defense Electronics Supply Center, Dayton, Ohio. The RFP called for incremental offers on quantities of radome antennae, and limited the procurement to products manufactured by a currently approved source of supply. Smith is the sole approved source.

Miller contends that the specifications limiting the procurement to items manufactured by Smith unduly restricts competition.

The solicitation was issued May 13, 1976, with a closing date for the receipt of initial proposals of June 3, 1976. It was not until August 13, 1976, that Miller protested to this Office. Miller's protest concerns an alleged impropriety in the solicitation which was apparent prior to the closing date for receipt of initial proposals. Our Bid Protest Procedures require that in such circumstances the protest be filed prior to the closing date for receipt of initial proposals. 4 C.F.R. § 20.2(b)(1) (1976); American Federation of Government Employees, Local 3347, B-187074, September 21, 1976, 76-2 CPD 266. While Miller may have been unaware of this requirement, our Bid Protest Procedures were published in the Federal Register, 40 Fed. Reg. 17979 (1975), and therefore Miller has constructive notice of its contents. Twyco, Inc.--Request for reconsideration, B-185126, December 23, 1975, 75-2 CPD 403; Winston Bros. Company v. United States, 458 F.2d 49 (Ct. Cl. 1972).

B-167183

Accordingly, the protest is dismissed.

*Milton Fowler*  
for Paul G. Dembling  
General Counsel