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DECISION



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

FILE: B-193061

DATE: February 27, 1979

MATTER OF: Strati Systems, Inc.

DLG00966

DIGEST:

[Untimely Protest of cancellation of solicitation] filed more than 10 days after basis for protest was known is untimely.

DLG00967

Strati Systems, Inc. (Strati) protests the cancellation by the Department of Transportation, Federal Aviation Administration (FAA) of invitation for bids (IFB) No. GLBB-8-155 for equipment relocation at the Falls International Airport, International Falls, Minnesota, because Strati's bid, the only one received, was determined to be unreasonably priced. As its basis for protest, Strati claims the cancellation resulted from an erroneous cost estimate and that it should have received the award. AGC00036

Only Strati submitted a bid of \$156,275. The Government estimate for the required work was \$78,690, and on this basis the invitation was canceled under the authority of Federal Procurement Regulations (FPR) 1-2.404-1(b)(5) (1964 ed.) which permits cancellation after bid opening where all otherwise acceptable bids received are at unreasonable prices.

Request for proposals (RFP) No. GLBB-8-155 was issued on September 11, 1978 pursuant to FPR 1-3.214 (which permits negotiation after advertising where it has been determined that prices received under the advertised procurement are not reasonable) with September 22, 1978 established as the closing date for receipt of proposals. According to the FAA, the RFP was handcarried on September 13, 1978 to Strati and another firm which had indicated interest in submitting an offer thereunder. By telegram dated September 19, 1978, the RFP was canceled because the FAA concluded that award under the RFP would not be desirable since the project was being delayed until the spring of 1979 and because additional firms expressed interest in the project.

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The protest challenging the cancellation of the IFB (no mention was made of the RFP cancellation) was filed on October 2, 1978. In light of the facts disclosed by the FAA report, we must view the protest as untimely because it was not filed within 10 working days after the basis of the protest was known or should have been known. 4 C.F.R. 20.2(b)(2) (1978). The protester contends that it submitted a "competitive" bid and objects to the agency's decision to resolicit instead of accepting that "competitive" bid. As of September 13, 1978, the date the RFP was "hand carried" to the protester, Strati was on notice that no award would be made under the IFB. Thus, the protest should have been filed on September 27, 1978 to be considered timely.

Since this protest has been fully developed, we do point out that there appears to be no merit to the protest. Although the FAA admits its original project cost estimate was erroneous, it states that the estimate was understated by about 10 percent, leaving the Strati bid more than 80 percent higher than the revised estimate. In such a case we would not view the determination to cancel the IFB as an abuse of discretion. See General Elevator Company, Inc., B-190605, June 12, 1978, 78-1 CPD 426.

Strati also questioned the propriety of the September 19, 1978 cancellation of the RFP in comments filed on November 27, 1978, about 10 weeks after this basis for protest became known. Obviously, that protest issue has not been timely filed and will not be considered on the merits. Bunker Ramo Corporation, 55 Comp. Gen. 712 (1977), 77-1 CPD 427.

The protest is dismissed.


Milton J. Socolar
General Counsel