

13457 PL-I

**DECISION**



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

FILE: B-198214

DATE: April 17, 1980

MATTER OF: Houston Fearless 76, Inc. *DLG 04390*

**DIGEST:**

Bid Protest Procedures require *[protests]* against improprieties in solicitation *[apparent]* prior to bid opening/closing date for receipt of initial proposals to be filed prior to bid opening/closing date and protests against other matters to be filed within 10 working days after basis of protest is, or should have been, known. Protest against specifications filed after bid opening/closing date is untimely, as is protest against protracted delay in making award filed more than 10 days thereafter.

Solicitation No. C-79501-50 was issued on September 14, 1979, by the Bureau of the Census for film *AGC00204* processing machines and accessories. The two bids received were rejected as nonresponsive, and the solicitation was canceled. On January 4, 1980, solicitation No. C-80501-18 was issued for the negotiated procurement of the same items. Offers were received, and offerors were requested to submit their best and final offers by February 28. Award was made to the low offeror on February 29.

Houston Fearless 76, Inc. (Houston), an unsuccessful bidder and offeror on the procurement, protests the fact that the Bureau of the Census took 168 days to complete the procurement notwithstanding the fact that delivery of the items was required in 100 days with a possible maximum penalty of \$4,000 a day for late delivery. It also believes that, due to the necessity for such detailed documents and proposal efforts caused by the requirement for equipment which was unnecessarily "tightly specified," an excessive amount of money was caused to be spent by any small business, as well as by the Government in evaluating proposals and in sending a five-man

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team to discuss proposals, who cared to participate in the procurement. Houston protested these matters in a letter received by our Office on March 25.

We note that the protester never protested these matters to the contracting agency and that--we are advised by the Bureau of the Census--an employee of the protester was informed on February 29 that the award was being made to an offeror other than Houston.

Our Bid Protest Procedures require (see 4 C.F.R. § 20.2(b)(1) and (b)(2) (1979)) that protests against improprieties in a solicitation which are apparent prior to the bid opening/closing date for the receipt of initial proposals must be filed prior to the bid opening/closing date and that protests against other matters must be filed within 10 working days after the basis of the protest is, or should have been, known to the protester.

Since Houston did not meet these filing requirements in lodging its protest with our Office, the protest was untimely filed and is, consequently, not for consideration.

*Harry R. Van Cleave*  
for Milton J. Socolar  
General Counsel