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DECISION



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

FILE: B-195945.3

DATE: April 28, 1980

MATTER OF: U.S. Financial Services, Inc.

DLG-04477

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DIGEST:

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Where protester contends that protest is timely because it did not receive information upon which protest is based until March 14, 1980, but where GAO discovers that protester possessed that information on March 4, 1980, and presented it to GAO at informal conference on separate protest, protest filed on March 28, 1980, is dismissed as untimely under 4 C.F.R. § 20.2(b)(2) (1980) since it was not filed within 10 working days of when basis of protest was or should have been known.

U.S. Financial Services, Inc. (USFS), ^{Against} protests the cancellation of ~~request for proposals (RFP)~~ No. DLAH00-79-R-0125 by the Defense Logistics Agency (DLA). USFS's initial submission indicates that by letter of March 3, 1980, DLA's contracting officer notified USFS that the RFP was canceled because on February 22, 1980, the General Services Administration (GSA) had awarded a mandatory requirements contract for the disk storage subsystem to be procured under the canceled RFP. It appears that after USFS reviewed the GSA requirements contract, USFS concluded that DLA canceled the RFP without recognizing (1) that the GSA contract was not mandatory in the DLA situation and (2) that DLA could obtain better economic terms by continuing with the competitive procurement rather than by ordering under the GSA contract.

USFS believes that its protest filed here on March 28, 1980, is timely under GAO's Bid Protest Procedures because "a copy of the new mandatory [contract] was not received from GSA until March 14, 1980." We note, however, that in a separate protest filed by

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USFS in another matter USFS filed a copy of the pertinent portions of the GSA contract with our Office by letter dated March 10, 1980, and the president of USFS had that material with him at an informal conference held here on March 4, 1980. We conclude, therefore, that USFS knew or should have known its basis of protest when it received notice of DLA's determination to cancel the RFP.

Section 20.2(b)(2) of our Bid Protest Procedures, 4 C.F.R. part 20 (1980), provides that a protest must be filed within 10 working days of the date that the basis of protest is known or should have been known. Since USFS did not meet that requirement, the protest is untimely and will not be considered on the merits. Mr. Henry R. Stevenson, B-198071, March 26, 1980, 80-1 CPD 224, aff'd, April 24, 1980, 80-1 CPD ___ (protest against cancellation of RFP is untimely where filed more than 10 working days after protester knew basis of protest).

Protest dismissed.

Harry R. Jan Clene
for Milton J. Socolar
General Counsel