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Proc II

DECISION



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

M284

FILE: B-199406

DATE: July 16, 1980

MATTER OF: Americar Rental and Leasing System

DLG 04936

DIGEST:

1. Protest alleging defective delivery requirement of solicitation is untimely when filed subsequent to closing date for receipt of proposals.
2. Contention that awardee is not performing in accordance with specifications involves matter of contract administration which is not for determination under GAO Bid Protest Procedures.

Corporate Fleet Management, Inc., d/b/a Americar Rental System (Americar) protests the award of a contract by the Department of Energy (DOE) to Merchant's Rent-A-Car, Inc. (Merchant's) of Hooksett, New Hampshire under request for proposals (RFP) No. DE-RP01-80AD 75399. Americar claims that DOE's delivery requirements were impossible to meet and that, due to Merchant's inability to deliver timely, the contract should be canceled and a new solicitation issued.

DLG 00274
ACIC 000912

Americar states that it brought the alleged impossible-to-meet delivery requirements to the contracting officer's attention, but was advised the requirement would not be relaxed. Americar further advises that it then submitted a proposal which indicated the delivery date could not be met by Americar or any other company. Americar states that it later learned that award had been made to Merchant's on May 29, 1980, and that it then advised DOE that it would protest the award if Merchant's bid did not meet the delivery date of June 13, 1980. Americar filed its protest here on June 30.

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[Protest ALLEGING DELIVERY REQUIREMENTS ARE UNREALISTIC]

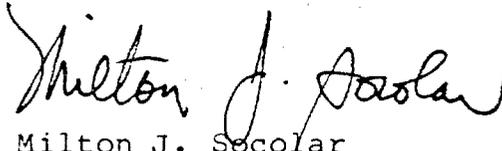
The protest is untimely or otherwise not for our consideration. Americar's objection continues to be the allegedly unrealistic delivery requirement contained in the RFP. Our Bid Protest Procedures, 4 C.F.R. § 20.2(b)(1) (1980), state that:

"Protests based upon alleged improprieties in any type of solicitation which are apparent prior to bid opening or the closing date for receipt of initial proposals shall be filed prior to bid opening or the closing date for receipt of initial proposals."

Since Americar did not protest until well after the closing date, the protest on this issue is untimely. Moreover, even if we viewed Americar's initial contact with the agency as a timely protest to the agency, the subsequent protest filed here nonetheless would still be untimely since it was not filed within 10 days of adverse agency action on the protest as required by 4 C.F.R. § 20.2(a).

The question of whether Merchant's performs in compliance with the contract specifications is a matter of contract administration which we do not consider under our Bid Protest Procedures. Logicon, Inc., B-196105, March 25, 1980, 80-1 CPD 218.

Accordingly, this protest is dismissed and will not be considered on the merits.


Milton J. Secolar
General Counsel