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**DECISION**



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

FILE: B-204992

DATE: October 13, 1981

MATTER OF: COMSI, Inc.

**DIGEST:**

Protest alleging undue delay by procuring agency in making award is untimely where filed with GAO nearly 2 months after expiration of protester's offer and more than 10 working days after protester's receipt of notification of elimination from competitive range.

COMSI, Inc. protests the General Services Administration's (GSA) conduct relating to negotiations under request for proposals SCFB-39-80-074. COMSI essentially contends that GSA has unduly delayed award under this solicitation and suggests that this delay may have been caused by the possible inability of the low offeror to perform the contemplated contract. We will not consider this protest because we find it to have been untimely filed.

The closing date for receipt of initial proposals was April 7, 1981. The protester's offer expired by its terms 90 days thereafter, in early July. GSA did not request COMSI to extend or revive the proposal. By notice dated August 6, 1981, GSA informed COMSI that its offer was not within the competitive range. COMSI did not file a protest with our Office until September 30, 1981.

Our Bid Protest Procedures require protests to be filed not later than 10 working days after the basis for protest is known, or should have been known, whichever is earlier. 4 C.F.R. 21.1(b)(2)(1981). Obviously, it is difficult to determine a precise date upon which an allegedly undue delay in award became or should have become apparent to an offeror. We think it clear, however, that upon receipt of the August 6 notification of elimination from the competitive range, more than one month after expiration of the proposal acceptance period,

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COMSI was, or should have been aware of its alleged basis for protest. Thus, COMSI's protest filed on September 30, 1981 was untimely.

The protest is dismissed.

*Harry R. Van Cleve*

Harry R. Van Cleve  
Acting General Counsel