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**DECISION**



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

FILE: B-204427

DATE: October 21, 1981

MATTER OF: Hawaii C.A.P. Directors Association, Inc.

**DIGEST:**

Protest--concerning eligibility of offeror to compete under procurement--filed with GAO more than 10 working days after basis for protest was known is untimely and not for consideration. See 4 C.F.R. § 21.2(b)(2) (1981).

Hawaii C.A.P. Directors Association, Inc. (Hawaii C.A.P.), protests the decision of Region IX of the Department of Health and Human Services not to allow it to submit an offer under request for proposals No. 190-81-0036. Because the protest was untimely filed with our Office, we will not consider it.

Background

On May 29, 1981, Region IX sent a letter to Hawaii C.A.P. informing the organization that a copy of the request for proposals was being sent--as requested--for informational purposes only. The letter further informed Hawaii C.A.P. that it could not be considered an eligible offeror on the procurement "since [the organization] is an association of the grantee agencies to whom the services under the contract would be provided." By letter of July 1 to Hawaii C.A.P., the Region's contracting officer finally denied the Hawaii C.A.P. request that it be allowed to take part in the procurement; the letter also advised Hawaii C.A.P. that it could appeal the decision either to the Office of the Secretary, Department of Health and Human Services, or to our Office. The July 1 letter was received by Hawaii C.A.P. on July 9.

We received the Hawaii C.A.P. protest for the first time on August 12, 1981, through a congressional source; the transmitted correspondence included a copy of a letter dated July 14, addressed to our Office, wherein Hawaii C.A.P. protested the decision of Region

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IX not to allow it to compete under the procurement. However, we have not received the original of this July 14 letter.

Analysis

Under the above facts, we conclude that Hawaii C.A.P. must be charged with notice of a basis for protest as to its eligibility as an offeror no later than July 9--the date on which the organization received the contracting officer's final decision. Nevertheless, we did not receive the organization's protest until August 12, 1981, or more than 10 working days after the organization was on notice of a basis for protest. Consequently, the protest is untimely filed under our Bid Protest Procedures (4 C.F.R. part 21 (1981)) and will not be considered. See 4 C.F.R. § 21.2(b)(2) (1981).

Accordingly, the protest is dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel