

Roberts 119676

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20348**

**FILE:** B-209093, B-209093.2      **DATE:** October 6, 1982

**MATTER OF:** Lista International Corp.;  
Azcra, Inc.

**DIGEST:**

1. Protests concerning alleged deficiencies in solicitations which have been cancelled by agency are academic and will not be considered.
2. Protests concerning alleged deficiencies apparent in solicitations, filed after closing dates for receipt of quotations, are untimely and not for GAO consideration under Bid Protest Procedures.
3. Protests filed with GAO more than 10 working days after protester receives notice of initial adverse agency action on protest filed with agency are untimely and not for consideration on the merits.

Lista International Corp. and Azcra, Inc., protest under Department of the Air Force request for quotation (RFQ) Nos. F02604-82-T7600, T7548, T7319, T7012, T6468, T7298, T6584, T6333, T6686, T7654, T7519, T7655, T6467, T6792, T6685, T6253, T7080, T6466, BA063, and RA034. Both protesters allege deficiencies in these RFQs.

We will not consider the merits of these protests because they are either academic or untimely filed.

Academic

The Air Force informally has advised us that all of the RFQ's involved in these protests have been canceled except for T7600 and RA034 under which awards were made on September 9, 1982 to a firm other than Lista or Azcra. Therefore, with regard to the 18 RFQs that were canceled, the question of whether or not they were deficient is academic and will not be considered. CF. Major Consolidated, Inc., B-204596, November 23, 1981, 81-2 CPD 420.

Untimely

Our Bid Protest Procedures require that alleged improprieties in any solicitation which are apparent prior to the closing date for receipt of initial quotations must be protested before that date to be considered on the merits. 4 C.F.R. § 21.2(b)(1) (1982).

The closing dates for receipt of quotations under the two RFQs that were not canceled were August 24 for T7600 and August 20 for RA034. Lista's protests concerning alleged RFQ deficiencies were not filed in our Office until September 16. Lista's failure to file its protests prior to the closing dates for T7600 and RA034, despite its knowledge of the bases for these protests prior to those dates, renders its protests untimely and they will not be considered. See Astro Pak/Sub Sea Surveyors, Inc., B-195405.3, September 13, 1979, 79-2 CPD 195.

Azcra filed pre-closing date protests concerning deficiencies in T7600 and RA034 with the contracting agency in a letter of August 20. By letter dated August 27, which Azcra indicates it received on September 7 the Air Force responded to Azcra by denying the protests. On September 8, Azcra appealed this denial to the Air Force; our review in the matter, however, was not requested until Azcra filed a protest with the Comptroller General on September 22, our date of receipt.

Our Bid Protest Procedures at 4 C.F.R. § 21.2(a) provide that once a protest has been timely filed with the contracting agency, any subsequent protest to the Comptroller General must be filed within 10 working days of knowledge of any initial adverse action by the contracting agency regarding the protest. Since Azcra had knowledge of the initial adverse agency action on September 7, its delay in filing its protests with our Office until September 22 render the protests untimely. See Scan-Data Corporation, B-192442, October 11, 1978, 78-2 CPD 268.

The protests are dismissed.

*J. H. Barclay, Jr.*  
for Harry R. Van Cleve  
Acting General Counsel