

DECISION



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

FILE: B-212812

DATE: October 27, 1983

MATTER OF: Guerra Technical Sales, Inc.

DIGEST:

A protest is untimely under GAO Bid Protest Procedures where the protester fails to diligently pursue information upon which the protest is based.

Guerra Technical Sales, Inc. protests the issuance by the Armed Forces Radiobiology Research Institute of delivery and purchase orders for laboratory furniture and its installation to Hamilton Manufacturing Company. Guerra contends that the contracting officer improperly excluded the firm from competition for these purchases.

We dismiss the protest.

Guerra states that it attempted to participate in two previous purchase requests for the furniture, issued in November 1982, but that they were thereafter canceled. In January 1983, the firm continues, the contracting officer requested quotes from suppliers on the General Services Administration's Federal Supply Schedule (FSS) but subsequently withdrew the request. Guerra alleges that, upon contacting the agency officials in early April, the firm was informed that the scheduling of the next purchase was uncertain but that Hamilton's FSS contract expired on April 30. Guerra relates that it did not contact the contracting officer again until mid-August, when it was told that orders had been placed off the FSS and under small purchase procedures with Hamilton at the end of April. The firm thereafter filed a protest with this Office on August 24.

Our Bid Protest Procedures require that a protest be filed not later than 10 working days after the basis of the protest is known or should have been known, whichever is earlier. 4 C.F.R. § 21.2(b)(2) (1983). In this regard, it is incumbent upon a potential protester to seek diligently whatever relevant information is needed to determine whether a basis for protest exists. Sierra Pacific Air Lines, B-205439, July 19, 1982, 82-2 CPD 54. A protester's failure

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to pursue that information within a reasonable time of its availability requires rejection of the protest as untimely. Foreign Exchange Service--Dulles, B-209017, October 21, 1982, 82-2 CPD 356.

In this instance, Guerra, having participated in the contracting officer's earlier attempts to purchase the furniture, knew in April that the agency's needs had remained unmet since November of 1982. As a result of the firm's April inquiries, Guerra also knew that agency officials attached some sense of urgency to the purchase since concern was expressed at that time that Hamilton's FSS contract expired later that month. While Guerra apparently had no reason to know in early April precisely what the agency's approach to meeting its needs would be, the firm at least should have known in April that the agency was not likely to wait 4 months before attempting to purchase the furniture again. Thus, we believe that it was not reasonable for Guerra to wait almost 4 months before inquiring about the status of the purchase, and we therefore conclude that Guerra's protest is untimely.

The protest is dismissed.

Harry R. Van Cleve

Harry R. Van Cleve
Acting General Counsel