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DECISION



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

FILE: B-215388

DATE: June 20, 1984

MATTER OF: Unico, Inc.

DIGEST:

1. Protest alleging that specifications are unduly restrictive is dismissed since it was not filed before bid opening.
2. Where protester's letter to agency expressing dissatisfaction with specifications indicates an intent to protest in the future if concerns are not satisfactorily resolved, letter and agency response to that letter cannot be used to fix the date of protest for timeliness purposes since time for fixing date of protest is when protest is made.

Unico, Inc., protests any award under invitation for bids (IFB) No. F41800-84-B-9338 issued by the San Antonio Contracting Center, Department of the Air Force, for the lease and maintenance of word processing equipment.

Unico contends that the IFB specifications are restrictive and appear to favor the product of a specific vendor. This allegation concerns an impropriety in the solicitation which was apparent prior to bid opening, Paul Land and Marine Corporation, B-211552, May 9, 1983, 83-1 CPD 490, and should have been submitted to the contracting agency or this Office prior to the date set for bid opening. See 4 C.F.R. § 21.2(b)(1) (1983). In this regard, we note that we have been informally advised by the Air Force that bids were opened on May 29, 1984.

While Unico did file a letter with the contracting agency on April 16, 1984, expressing its concern with several items in the specifications, that letter merely indicated an intention to file a future protest if Unico's complaints were not satisfactorily resolved. JRS Industries, Inc., B-208867, April 4, 1983, 83-1 CPD 348. The Air Force responded with a letter of clarification dated May 18, which Unico received on May 21. Based on the record, however, we find that no protest was filed with the contracting agency prior to bid opening. Consequently, Unico's protest, received in our Office on May 30, 1984, is untimely and will not be considered on the merits.

Protest dismissed.

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