

DECISION

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

FILE: B-219814.3 **DATE:** October 11, 1985
MATTER OF: Bellevue Bus Service, Inc.

DIGEST:

1. Protest that oral solicitation should not have been used and was improperly conducted, filed after bids were due, is untimely.
2. Protest that award should have been made to protester as second low bidder under prior solicitation, filed more than 10 working days after protester knew agency was recompetiting requirement, is dismissed as untimely.

Bellevue Bus Service, Inc. (Bellevue), protests the award of a contract to Chief Bus Lines in connection with a solicitation issued by Offutt Air Force Base, Nebraska, for school bus service.

We dismiss the protest as untimely.

The Air Force had previously awarded a contract under invitation for bids (IFB) No. F25600-85-B0040, for school bus service, to Pony Express, Inc., the low bidder. Bellevue was the second low bidder on that solicitation. Bellevue states that Pony Express commenced performance under the contract on August 19, 1985, but, on September 11, the Air Force terminated that contract and orally resolicited bids for the provision of school bus service. Bellevue submitted a bid in response to the oral solicitation and, on September 13, was advised that an award was being made to Chief Bus Lines.

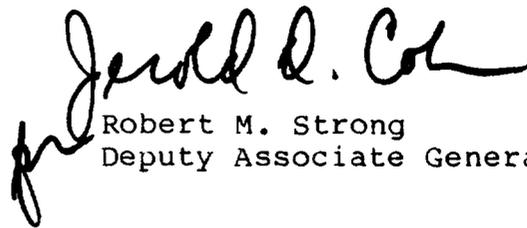
Bellevue argues that when Pony Express' contract was terminated, Bellevue, as second low bidder on that solicitation, should have been awarded the contract to provide the school bus service. Bellevue also contends that the solicitation was improperly conducted in that oral bids were obtained over the telephone, whereas a solicitation should have been published and sealed bids should have been required.

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The protest against the oral solicitation constitutes a protest of an alleged apparent solicitation impropriety which, under GAO Bid Protest Regulations, must be filed prior to bid opening. 4 C.F.R. § 21.2(a)(1) (1985). Since Bellevue's protest was filed on September 27, after bids were due, it is untimely.

Further, Bellevue's contention that it should have received the award based on its previous bid is untimely. When Bellevue was contacted for an oral bid on September 11, it knew that the Air Force was recompeting the requirement. Under 4 C.F.R. § 21.2(a)(2) of our Regulations, Bellevue's protest had to be filed within 10 working days of when it knew its basis of protest, September 11. Therefore, its protest of this issue on September 27 is also untimely.

The protest is dismissed.



Robert M. Strong
Deputy Associate General Counsel