

DECISION

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

FILE: B-222572

DATE: May 22, 1986

MATTER OF: Empire Realty Co., Inc.

DIGEST:

General Accounting Office will not consider protest referred to it for decision by the Department of Housing and Urban Development Board of Contract Appeals where the protest was untimely filed with the Board.

This matter concerns a protest filed by Empire Realty Company, Inc. with the Department of Housing and Urban Development's (HUD) Board of Contract Appeals in which Empire Realty objected to the cancellation of solicitation No. 5-86-075 issued under the National Housing Act, 12 U.S.C. § 1701 et seq. (1982), for property management services. The complaint was referred to our Office by HUD's Associate General Counsel for Equal Opportunity and Administrative Law pursuant to an order of the Board. We dismiss the protest.

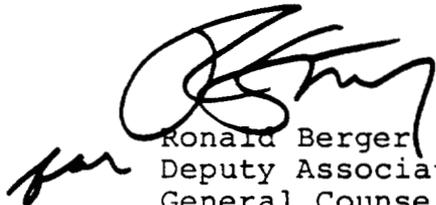
Empire Realty filed its protest at the Board (HUDBCA No. 86-1623-B2) on May 9, 1986, contending that it was the low, responsive, responsible bidder under the solicitation, but that the agency improperly canceled the solicitation based on a finding of inadequate competition. In ordering referral, the Board explained that authority to consider protests of National Housing Act procurement actions lies with our Office under the Competition in Contracting Act of 1984 (CICA), 31 U.S.C.A. §§ 3551-3556 (West Supp. 1986), and that pending revision of the Board's rules to delete the provisions on bid protests, 24 C.F.R. §§ 20.15-20.25 (1985), our Office will consider protests referred by the Board, provided their filing at the Board is timely under its rules.

However, Empire Realty did not file its protest with the Board in a timely manner. Section 20.18(b)(2) of 24 C.F.R. provides that a bid protest at the Board concerning

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other than solicitation improprieties must be filed not later than 10 working days after the basis for the protest is known or should have been known, whichever is earlier. The protester states in its protest that it was informed on February 26 that the agency had rejected all bids because of inadequate competition. The protest was not filed until May 9. Since the protest thus was not timely filed at the Board and would be untimely if it were treated as filed under our own substantially similar regulations (4 C.F.R. § 21.2 (1985)), we will not consider it.

The protest is dismissed.


for Ronald Berger
Deputy Associate
General Counsel