



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Datagate, Incorporated

File: B-225377

Date: November 17, 1986

DIGEST

1. Protest of solicitation's evaluation factors is dismissed as untimely when filed with the agency after closing date.
2. Protest of evaluation of protester's proposal is premature and is dismissed when filed while agency is still considering protester's proposal for award.

DECISION

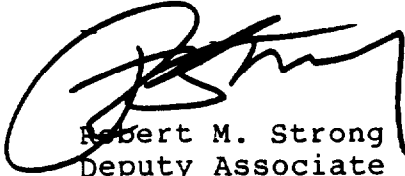
Datagate, Incorporated (Datagate), protests any award under request for proposals (RFP) No. F41650-86-R-0027, issued by the San Antonio Air Logistics Center, Kelly Air Force Base, for preventative remedial maintenance and calibration of certain government-owned equipment.

We dismiss this protest under the provisions at 4 C.F.R. § 21.3(f) (1986).

Datagate protests the evaluation factors in the solicitation. Datagate's protest was received in this Office on October 15, 1986, and earlier at the Air Force on October 3. Closing on this solicitation was held on August 25. Our Bid Protest Regulations require that protests based upon alleged improprieties in a solicitation which are apparent prior to the closing date for receipt of initial proposals be filed prior to that date. 4 C.F.R. § 21.2(a)(1). If a protest has been filed initially with the contracting agency, any subsequent protest to the General Accounting Office filed within 10 days of formal notification of or actual or constructive knowledge of initial adverse agency action will be considered, provided the initial protest to the agency was filed in accordance with the time limits in paragraph (a)(1). 4 C.F.R. § 21.2(a)(3). Since Datagate's protest to the agency of the solicitation was filed after the closing date, its protest is dismissed.

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The Air Force also advises us that Datagate is still in competition for an award. Accordingly, to the extent that Datagate's protest involves the actual evaluation of its proposal, its protest is premature.

A handwritten signature in black ink, appearing to read 'R. Strong', is written over the typed name.

Robert M. Strong
Deputy Associate General Counsel