



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Sigma West Corporation

**File:** B-226455

**Date:** March 24, 1987

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### DIGEST

Protest based on an alleged solicitation impropriety incorporated into the solicitation after initial proposals were due is untimely because it was not filed before the next closing date for receipt of proposals.

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### DECISION

Sigma West Corporation protests the negotiation process employed by the General Services Administration (GSA) under request for proposals No. FCEP-AR-F6008-N. Sigma contends that it was inappropriate for GSA to have requested best and final offers (BAFO's).

We dismiss the protest as untimely.

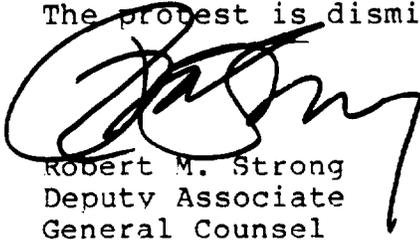
Sigma advises that it submitted its initial proposal on August 11, 1986. In December 1986, GSA advised Sigma that it currently was the lowest offeror on item No. 4 of the RFP and that it would be necessary to obtain a certificate of competency (COC) from the Small Business Administration (SBA) in order to receive the award. Further, GSA asked whether Sigma could lower the price, but Sigma confirmed its price. Sigma states that GSA also asked whether it could justify its price of the item. Sigma provided GSA with a cost breakdown on the item. Subsequently, the SBA issued Sigma a COC. Sigma advises that on February 20, 1987, GSA informed Sigma that by asking whether it could lower the price for item No. 4, it had mistakenly opened negotiations. Therefore, GSA requested BAFO's on item No. 4 from Sigma and all other offerors, which were submitted on February 24, 1987. Sigma protested the handling of the procurement by letter filed in our Office on March 6, 1987.

Sigma protests that, after 7 months and the expense that it incurred to file for a COC and the numerous extensions of its offer, GSA took the contract away from it merely due to

mistakenly reopening negotiations. Sigma contends that GSA mishandled the negotiation process.

Our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (1986), provide that in procurements where proposals are requested, alleged improprieties which do not exist in the initial solicitation but which are subsequently incorporated into the solicitation must be protested not later than the next closing date for the receipt of proposals. Sigma became aware of its basis of protest when GSA requested BAFO's on February 20, and therefore it was required to file its protest before February 24, the closing date for BAFO's. Sigma's protest was not filed in our Office until March 6. Therefore, we find that the protest untimely and not for consideration on the merits. See Janke and Company, Inc., B-225572, Dec. 29, 1986, 86-2 C.P.D. ¶ 719.

The protest is dismissed.



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