



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: George H. Kayser

File: B-237717

Date: December 7, 1989

DIGEST

Protest that agency did not solicit offer from protester or notify protester that it was soliciting offers from others is dismissed as untimely where record shows protester knew more than 2 months prior to the filing of its protest that General Services Administration had issued the solicitation and it was not on the mailing list for the solicitation.

DECISION

George H. Kayser, protests the award of a lease to any other offeror under solicitation for offers (SFO) No. GS-07B-13366, issued by the General Services Administration (GSA) for premises in Mountainair, New Mexico.

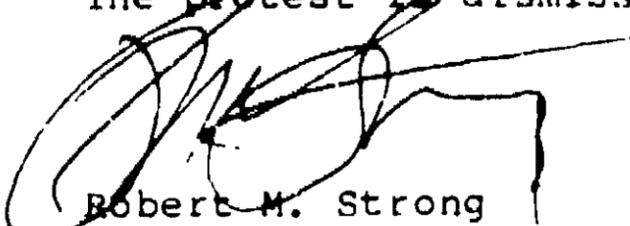
We dismiss the protest.

Mr. Kayser alleges that GSA did not solicit an offer from him for the lease nor did GSA notify him that it was soliciting offers from others for the lease, which deprived him of the opportunity to submit an offer. Mr. Kayser also contends that GSA failed to solicit information on the availability of space, failed to inspect all offered locations, failed to document its findings for inspected locations and failed to consult local officials with regard to space assignment, acquisition, and construction activities. Mr. Kayser further contends that the lease was awarded to lessors not located in Mountainair, but in Belem, New Mexico, in violation of GSA's regulations.

GSA has submitted a copy of a letter dated September 4, 1989, signed by Mr. Kayser, in which he acknowledges that GSA had issued the SFO at issue here and in which he notes that he was not on GSA's mailing list for the SFO. However, the letter relates to an existing lease and is not a protest under the subject SFO.

Our Bid Protest Regulations state that protests shall be filed not later than 10 days after the basis of protest is known or should have been known, whichever is earlier. 4 C.F.R. § 21.2(a)(2) (1989). Here, Mr. Kayser knew, at least as of September 4, that GSA had issued the solicitation but had not mailed a copy to him. At that time, therefore, Mr. Kayser knew his basis of protest and should have protested within 10 working days. Mr. Kayser's protest, filed in this Office on November 8, more than 2 months after he knew the basis of his protest, is therefore untimely. With respect to Mr. Kayser's remaining contentions; that GSA took other improper actions in the conduct of this procurement, Mr. Kayser's only cognizable interest in this procurement is that of a potential competitor, 4 C.F.R. § 21.0(a), an interest Mr. Kayser failed to protect through the filing of a timely protest. Neal R. Gross and Co. Inc., B-229966, Mar. 24, 1988, 88-1 CPD ¶ 305, aff'd, Apr. 18, 1988, 88-1 CPD ¶ 378.

The protest is dismissed.



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