

Benejam



Comptroller General  
of the United States

Washington, D.C. 20548

# Decision

**Matter of:** Autoflex Inc.  
**File:** B-239581, B-239582, B-239584  
**Date:** June 4, 1990

Luis D. MacDonald, for the protester.  
Roger D. Waldron, Esq., Office of the General Counsel,  
General Services Administration, for the agency.  
Aldo A. Benejam, Esq., and Christine S. Melody, Esq., Office  
of the General Counsel, GAO, participated in the preparation  
of the decision.

## DIGEST

1. Protest against rejection of unsolicited proposal is untimely and not for consideration when not filed within 10 working days after protester received letter setting forth basis for rejection of the proposal.
2. Protest against alleged solicitation impropriety apparent on the face of the solicitation is untimely and not for consideration when not filed prior to the closing date for receipt of initial proposals.

## DECISION

Autoflex Inc. protests the General Services Administration's (GSA) rejection of its unsolicited proposal for a cost comparison study of motor vehicle fleet management services. GSA rejected the proposal based upon Federal Acquisition Regulation (FAR) § 15.503(c)(5), which restricts an agency's acceptance of an unsolicited proposal for a known agency requirement that can be acquired by competitive methods.

We dismiss the protests.

Section 15303(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), 40 U.S.C. § 905(a) (1988), requires executive agencies to conduct a comprehensive study of the costs and benefits associated with meeting the agencies' motor vehicle requirements either in-house, through outside contracting, or by any other means less costly to the government. On July 4, 1988, Autoflex submitted an unsolicited proposal to GSA, describing how

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Autoflex could assist GSA in performing its cost comparison study under COBRA. By letter dated July 27, GSA returned Autoflex's proposal and advised the protester that GSA anticipated formally soliciting for cost comparison studies of fleet management services commencing in May 1989. Subsequently, GSA issued three requests for proposals (RFP) during 1989, inviting proposals to conduct the cost comparison studies.<sup>1/</sup>

Autoflex filed its protest in our Office on May 7, 1990, alleging that, by rejecting its unsolicited proposal, GSA improperly failed to adhere to the COBRA requirements. Autoflex also alleges that the RFPs subsequently issued by GSA precluded the submission of proposals under 40 U.S.C. § 905(a)(1)(C), which requires that COBRA cost comparisons consider "any other means less costly to the Government, to meet its motor vehicle operation, maintenance, leasing, acquisition, and disposal requirements."

Under our Bid Protest Regulations, protests must be filed not later than 10 working days after the basis of protest is known or should have been known, whichever is earlier; a protest not filed within this period will be dismissed as untimely. 4 C.F.R. § 21.2(a)(2) (1990). Accordingly, where, as here, an offeror is advised of a specific basis for rejection of its proposal, any protest of the rejection must be filed within 10 days thereafter. GSA's July 27, 1988, letter informed Autoflex of the rejection of its unsolicited proposal and set forth the specific reason for such rejection. Autoflex did not file its protests with our Office until May 7, 1990, nearly 2 years after its receipt of the notice of rejection; therefore its protests are dismissed as untimely.

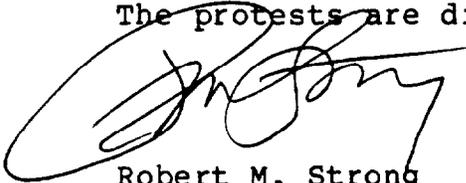
To the extent that Autoflex is challenging the terms of the solicitations, the protests concern an alleged solicitation impropriety which, under our Regulations, was required to be filed by the closing date for receipt of initial proposals. 4 C.F.R. § 21.2(a)(1). Since the protests were filed well after the closing dates (August 24, 1989, December 28, 1989,

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<sup>1/</sup> RFP No. TFTC-89-MR-2052, issued on May 30, 1989, with an amended closing date of August 24, was canceled on February 7, 1990, after the only three proposals received by GSA were withdrawn; RFP No. AT/TC-20077, issued on October 27, 1989, with a closing date of December 28, was canceled on March 21, 1990, after no proposals were received; and RFP No. 7FXI-X6-89-S022, issued on December 15, 1989, with a closing date of March 22, 1990, was canceled on April 16, 1990, after GSA received no proposals.

and March 22, 1990), the protests are untimely on this ground as well. In any event, the issue raised by Autoflex is academic since GSA has canceled all three RFPs based on a lack of response.

The protests are dismissed.

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

Robert M. Strong  
Associate General Counsel