

DECISION



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

FILE: B-187074

DATE: September 21, 1976

MATTER OF: American Federation of Government Employees,
Local 3347

61526
97997

DIGEST: Protest of alleged improprieties in solicitation, which are apparent prior to closing date set for receipt of initial proposals, filed subsequent to closing date is untimely filed and not for consideration. Issues raised by American Federation of Government Employees union concerning procurement may be considered by Assistant Secretary of Labor for Labor-Management Relations incident to an unfair labor practice complaint that union has filed.

The American Federation of Government Employees (AFGE), Local 3347, protests the Environmental Protection Agency's (EPA) intended procurement of personnel counseling services under request for proposals DU-76-C246 on the ground that such action is in violation of Executive Order 11491 in that EPA failed to negotiate with AFGE prior to EPA taking steps to provide these services. The solicitation was issued on May 28, 1976, with a closing date for receipt of initial proposals of June 14, 1976. It was not until July 27, 1976, that AFGE protested to this Office.

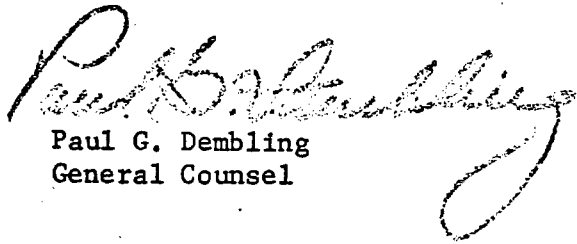
Based on the above it appears that AFGE's protest to the General Accounting Office is untimely, concerning as it does an alleged impropriety in the solicitation which was apparent prior to the closing date for receipt of initial proposals. Our bid protest procedures require that in such circumstances the protest must be filed prior to the closing date for receipt of initial proposals, 4 C.F.R. § 20.2(b)(1) (1976).

Accordingly, the protest is not for consideration by this Office.

We note that AFGE has filed an unfair labor practice complaint on July 27, 1976, under the provisions of 29 C.F.R. Part 203, Rules and Regulations of the Assistant Secretary of Labor for Labor-Management Relations, concerning this procurement. Under the present circumstances, we believe that the unfair labor practice proceedings provide an appropriate forum for resolution of the substantive issues raised by AFGE.

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We should also point out that EPA has advised us that it is currently preparing a request for a decision from this Office as to the propriety of expending appropriated funds to obtain personnel counseling services for Government employees. If we should rule such expenditures are improper, EPA states it would cancel the solicitation.


Paul G. Dembling
General Counsel