

**DECISION**

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

FILE: B-187723

DATE: November 18, 1976

MATTER OF: I.S.E., Inc.

**DIGEST:**

Protest filed after closing date for receipt of quotations based on alleged defects in solicitation apparent prior to the closing date for receipt of quotations is untimely and will not be considered.

I.S.E., Inc.; protests the award of a contract by the Department of Agriculture, Forest Service, under request for quotations No. R2-76-73, dated September 9, 1976, for a comparative analysis of solar heated greenhouse systems.

I.S.E.'s protest is based on its view that the solicitation was defective because: (1) it contained an I.S.E. document, which I.S.E. expected would not be released to the public; (2) it was based on information obtained from I.S.E.; (3) award based on price only is not in the Government's best interests; (4) use of certain design information in the solicitation may involve a patent infringement; and (5) the application of evaluation criteria other than price should have resulted in the selection of I.S.E.

I.S.E. protested these alleged defects in the solicitation to the contracting officer after the closing date for receipt of quotations. The contracting officer found I.S.E.'s protest to be untimely and did not consider it.

I.S.E. now requests that our Office consider its protest. I.S.E. indicates that it recognized the defects in the solicitation immediately upon receiving it but elected not to protest to the agency or our Office prior to the closing date for receipt of quotations.

Section 20.2(b)(1) of our Bid Protest Procedures, 4 C.F.R. § 20.2(b)(1)(1976), provides:

"Protests based upon alleged improprieties in any type of solicitation which are apparent prior to \* \* \* the closing date for receipt of initial proposals shall be filed prior to \* \* \* the closing date for receipt of initial proposals. \* \* \*"

B-187728

Since I.S.E.'s protest based upon alleged improprieties in the solicitation apparent prior to the closing date for receipt of quotations was filed after the closing date for receipt of quotations, it is untimely and will not be considered by our Office.

*for* *Sheldon Fowler*  
Paul G. Dembling  
General Counsel