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DECISION



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

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FILE: B-191251

DATE: February 24, 1978

MATTER OF: Boese Hilburn Company

DIGEST:

Protest is untimely and not for consideration on the merits when basis for protest, alleged attempt of apparent low bidder to "buy in," was known more than 10 days prior to filing protest.

The Boese Hilburn Company (Boese) has protested the award of a contract under solicitation No. 62477-76-B-0090 issued by the Naval Facilities Engineering Command (Navy), Chesapeake Division, concerning the Energy Monitoring and Control System at Andrews and Bolling Air Force Bases.

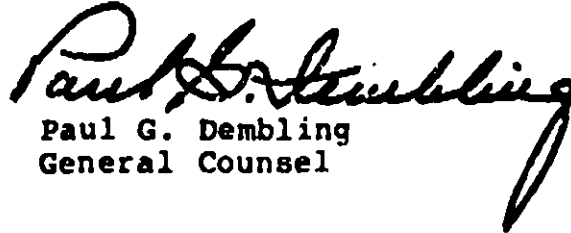
Boese's protest, filed with our Office on February 10, 1978, appears to be based on the contention that the "extremely low price of the apparent low bidder" is an attempt to "buy in," based on solicitation provisions which clearly established conditions upon which the successful contractor can justify changes to the original contract price * * *. Boese states further that it should have been obvious to the contracting officer from the extremely low price that there were possible specification departures.

We have been advised by the Navy that following the contract award on December 28, 1977, the appropriate letters were sent to the unsuccessful bidders and Boese called to discuss the award about that time.

Our Bid Protest Procedures provide that protests "shall be filed not later than 10 [working] days after the basis for protest is known or should have been known, whichever is earlier." 4 C.F.R. § 20.2(b)(2) (1977). It is clear from the record that Boese was aware of the basis of its protest more than 10 working days before its protest was filed with our Office on February 10, 1978.

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Consequently, the protest is untimely and not for consideration on the merits.


Paul G. Dembling
General Counsel