

DECISION



11,128
PL-11
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-195599

DATE: August 13, 1979

MATTER OF: Health Care Services, Inc.

DIGEST:

[Protest alleging ~~protester's receipt of CBD announcement~~ permitted insufficient time to obtain solicitation and submit proposal] is dismissed as untimely under GAO Bid Protest Procedures when received after closing date for receipt of initial proposals.

Health Care Services, Inc., (Health Care) protests the failure of the Naval Regional Procurement Office in Philadelphia (Navy) to mail request for proposals (RFP) No. N00140-79-R-1490 in sufficient time for Health Care to submit a proposal for radiology services. For reasons discussed below, this protest is dismissed as untimely under our Bid Protest Procedures, 4 C.F.R. Part 20 (1979).

Health Care states its first notice of the solicitation was on July 10, 1979 when it received the July 9 issue of the Commerce Business Daily (CBD). Although Health Care mailed a request on July 10, it did not receive the solicitation until July 24, one day after the closing date for receipt of proposals. Health Care contends that allowing for reasonable time for mail delivery, it should have received the solicitation by July 20 and that, in any event, the Navy having received its request before the closing date should have extended the closing date to enable Health Care and other potential offerors enough time to compete. Health Care, however, made no request for such an extension until after the closing date, and the Navy was not aware that the firm had not received the solicitation by the closing date.

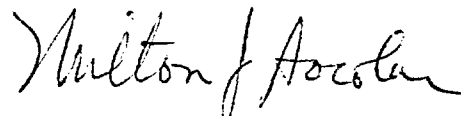
As the closing date for receipt of proposals was clearly stated in the CBD announcement, it was apparent

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on July 10 that Health Care had less than 14 days to obtain the solicitation and submit a proposal. As the closing date neared, Health Care alone was in a position to question the need for more time and it should have made a request therefor or have protested prior to July 23, 1979. Section 20.2(b)(1) of our Bid Protest Procedures, supra, requires that protests based on alleged improprieties which are apparent before the closing date for receipt of initial proposals be filed prior to that date. We must therefore decline to consider the allegations with regard to response time. Chambers Consultants and Planners, B-192465, August 18, 1978, 78-2 CPD 134.

It is noted, however, that even if we were to consider the merits of this case, there is no allegation or showing in the information presented by Health Care of a deliberate effort to exclude Health Care from the competition or that adequate competition and a reasonable price were not obtained by the Navy. Under such circumstances, the general rule is the procuring agency is not an insurer of delivery of solicitation documents and the risk of nonreceipt of a solicitation is upon the bidder or offeror. 52 Comp. Gen. 281 (1972).

The protest is dismissed.



Milton J. Socolar
General Counsel