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**DECISION**



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

FILE: R-214945

DATE: June 27, 1984

MATTER OF: Editorial Consultants, Inc.

DIGEST:

GAO dismisses protest where agency advises that it has not yet decided to conduct training course, which is subject of protest, or whether to obtain it through contract even if it is to be given. In the absence of an "award" or "proposed award" of a contract, protest is premature.

Editorial Consultants, Inc., protests an alleged sole source solicitation by the National Science Foundation for a course on writing management for executives. The firm believes that a "clandestine and noncompetitive" procurement is being conducted and that someone already has been selected for award. We dismiss the protest as premature.

The National Science Foundation, responding to the protest, states that it has been reviewing existing writing courses and has obtained literature and informal price quotations from several sources. This whole effort has been exploratory, the agency states, and no decision actually to conduct the course has been made. When and if it is, the agency adds, it expects to follow the small purchase procedures and to justify a sole source solicitation if used. At this time, the agency concludes, our Office should dismiss the protest.

Upon receiving this advice, Editorial Consultants "withdrew" its protest. However, it imposed two conditions: (1) that the National Science Foundation notify it or provide it with a copy of any solicitation for a competitive procurement issued within the next 2 years, and (2) that if the National Science Foundation conducts a limited competition or makes a sole source award, it notify Editorial Consultants, listing all potential sources, the selected source, and the contract price, and also provide Editorial Consultants with copies of all non-privileged materials submitted by the awardee.

029264

Since the National Science Foundation, rather than our Office, would have to meet these conditions, Editorial Consultants' "withdrawal" is meaningless. We agree, however, that the protest is premature, since it does not concern the award or proposed award of a particular contract. See our Bid Protest Procedures, 4 C.F.R. Part 21 (1984); Aero Corporation, R-194445.2, Oct. 17, 1979, 79-2 CPD # 262.

We note that an amendment to the Small Business Act, Pub. L. No. 98-72, 97 Stat. 403 (1983), with limited exceptions requires that all proposed competitive and noncompetitive civilian and defense procurements of \$10,000 or more be publicized in the Commerce Business Daily immediately after the necessity for the procurement is established. Further, federal agencies may not issue a solicitation until at least 15 days after the date of publication or foreclose competition until at least 30 days have elapsed. Under this amendment, we believe Editorial Consultants should have adequate notice of any proposed sole source award and adequate time to file a timely protest with our Office.

The present protest is dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel