

DECISION



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

FILE: B-218571.2 **DATE:** May 9, 1985
MATTER OF: General Telephone Company of California

DIGEST:

A protest alleging that an awardee submitted an unreasonably low bid is dismissed as untimely where it was filed more than 2 months after bids were opened, and where the protest expressly adopted arguments presented by another disappointed bidder in an earlier protest which was dismissed as not providing any legal basis for GAO's review of the matter.


General Telephone Company of California protests the award of a contract to AT&T Information Systems, Inc. (AT&T-IS) under invitation for bids (IFB) No. N62474-83-B-2985, issued by the Department of the Navy, Naval Facilities Engineering Command. General Telephone asserts that AT&T-IS's bid did not represent the lowest reasonably anticipated cost to the government, and that the resulting contract is therefore illegal. General Telephone's protest position is essentially the same as that asserted in an earlier protest filed by Pacific Bell, another disappointed bidder, and General Telephone expressly adopts the arguments presented in Pacific Bell's submission. We dismiss the protest.

GAO Bid Protest Regulations provide that protests alleging other than solicitation improprieties shall be filed not later than 10 working days after the basis of protest is known or should have been known, whichever is earlier. See 4 C.F.R. § 21.2(a)(2) (1985). Here, bids were opened on February 7, 1985, and General Telephone's basis of protest should have been known to the firm shortly thereafter upon examination of AT&T-IS's bid. General Telephone's protest, which was not received by this Office until April 26, more than 2 months after bid opening, was clearly filed beyond the 10-day period, and the protest is therefore untimely.

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In any event, we dismissed Pacific Bell's earlier protest, as now expressly adopted by General Telephone, under the well-settled rule that an allegation that a bidder submitted an unreasonably low bid provides no legal basis for protest, since a contracting agency may accept a below-cost bid if the bidder is found to be responsible. The Navy's award to AT&T-IS constituted such an affirmative determination of responsibility, and this Office does not review affirmative determinations of responsibility except in limited circumstances which were not present in Pacific Bell's protest. Pacific Bell, B-218571, May 7, 1985, 85-1 CPD ¶ ____.

The protest is dismissed.



Ronald Berger
Deputy Associate
General Counsel