

DECISION



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

FILE: B-220421 DATE: February 6, 1986
MATTER OF: Consolidated Bell, Inc.

DIGEST:

1. Protest against the placement of an order for a personal computer system with the General Services Administration's computer store, the Office of Technology Plus, at a price allegedly higher than that quoted by the protester, is timely where filed within 10 days of when the protester learns of the price paid for the computer system.
2. Protest that an agency failed to consider a brand name or equal quotation before ordering a computer system from the General Services Administration's Computer Store is without merit where the agency specified a brand name system and the offer was for an "equal" system that was not identified or described in any way.

Consolidated Bell, Inc. protests the placement of order No. 40 AANE 503415 with one of the General Services Administration's computer stores, known as the Office of Technology Plus. The order was for the Department of Commerce's National Oceanic and Atmospheric Administration (NOAA), which submitted a requisition dated June 3, 1985, for an International Business Machines Corporation (IBM) Personal Computer System, model PC-AT, to be installed and operable within 30 days after the receipt of the order. The protester contends that it submitted an acceptable brand name or equal quote of \$13,000, which was lower than the \$13,881.87 price obtained by the agency.

We deny the protest.

Commerce reports that for the purpose of obtaining quotations, in July 1985 the contracting officer issued copies of the requisition document to five firms believed capable of providing the computer system. Among these was Consolidated, which submitted a quote of \$14,000 with the handwritten notation "NB [Name Brand]" next to the price.

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Beneath this was written "NB or Equal \$13,000." Consolidated did not provide a written explanation regarding the meaning of this quote or submit any descriptive literature with it. Commerce states that it did not consider the \$13,000 quote to be an offer for the IBM system required, and since the GSA computer store's price of \$13,881.87 was deemed favorable, it placed an order with the store on September 5.

On October 16, the protester contacted the NOAA program officer and expected user of the computer system, who informed Consolidated that the agency had already ordered the system from the GSA computer store. On October 18, Consolidated contacted a new contracting officer (the original one had been replaced), who informed it that an order could be placed with the computer store without competitive bidding and without synopsisizing in the CBD. Consolidated states that it first learned of the computer store price on October 31; it protested to our Office on November 1. Consolidated argues that its own lower price requires an award to it.

Commerce argues that the protest is untimely under our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1985), which require a protest to be filed not later than 10 days after the basis for it is known or should have been known, whichever is earlier. Commerce refers to our decision in Storage Technology Corp., B-194549, May 9, 1980, 80-1 CPD ¶ 333, in which we held that a protest filed more than 10 working days after the protester knew of the agency's intent to make award to another firm was untimely. Commerce contends that the basis for protest in this case arose on October 16, so that the protest should have been filed by October 31.

It is our practice to resolve any doubt about timeliness in favor of the protester. See Weardco Construction Corp., B-210259, Sept. 2, 1983, 83-2 CPD ¶ 296. Although Consolidated was informed on October 16, that an order already had been placed, Consolidated apparently did not learn of the order price until October 31. Since the protest is based on the agency's award at a higher price, we find that the protest is timely.

We note first that the Office of Technology Plus, as GSA's computer stores in Washington, D.C., Philadelphia, and Atlanta are known, is a nonmandatory source of supply for federal agencies. Before placing orders (limited to \$100,000 each) for microcomputer products with one of the

computer stores, agencies are required to determine whether their requirements could be met at a lower overall cost through any of several alternative methods of procurement, including GSA's multiple award ADP schedule contract program, formal solicitation, or a small purchase. See Federal Information Resources Management (FIRM) Bulletin 6, June 25, 1984.

Here, the agency received quotations before ordering from the Computer store. The price offered by Consolidated for the IBM system was \$14,000, which was higher than the \$13,881.87 computer store price. Although Consolidated offered an alternate "NB or Equal" price of \$13,000, NOAA's request was for a particular system and did not provide for an "or equal" system. Even if an "or equal" had been acceptable, the protester did not submit any descriptive literature or otherwise identify what it was offering or demonstrate the equality of its proposed system. Accordingly, we think the agency acted reasonably in not considering Consolidated's alternate offer.

The protest is denied.

for Seymour Efron
Harry R. Van Cleve
General Counsel