



Comptroller General
of the United States

Washington, D.C. 20548

1462278

Decision

Matter of: Logue Boston Limited Partnership

File: B-246796

Date: March 27, 1992

Edward J. Logue for the protester.
Bruce I. Selfon, Esq., Cotten, Day & Selfon, for
101 Merrimac Partnership, an interested party.
Amy J. Brown, Esq., and Deborah A. Kaneb, Esq., General
Services Administration, for the agency.
Ralph O. White, Esq., Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

Protest that an agency's solicitation for offers is unduly restrictive is dismissed where the protester misaddresses its protest letter by using the wrong zip code and the protest arrives nearly 2 weeks after the agency receives initial proposals.

DECISION

Logue Boston Limited Partnership protests any award under solicitation for offers (SFO) No. 2-PXE-2204, issued by the General Services Administration (GSA) for a minimum of 55,000, and a maximum of 56,000, net usable square feet of office space in downtown Boston, Massachusetts, for lease by the Federal Bureau of Investigation (FBI). Logue argues that the SFO unduly restricts competition by requiring that offered buildings possess interior column spacing of not less than 25 feet, and that offerors have prior experience with a buildout of lease space. In addition, Logue argues that these provisions show that GSA is attempting to steer the award of this contract to a particular building.

We dismiss the protest as untimely.

The SFO here is the third solicitation by GSA for office space for the FBI's Boston Office; the two earlier solicitations were canceled. Although Logue filed a timely protest against the terms of the second solicitation, that protest became academic when the agency canceled the procurement. See generally Morey Mach., Inc.--Request for Recon., B-233793.2, Aug. 3, 1989, 89-2 CPD ¶ 102. GSA's third and current solicitation for this space, issued October 18, 1991, deleted several of the provisions challenged by Logue

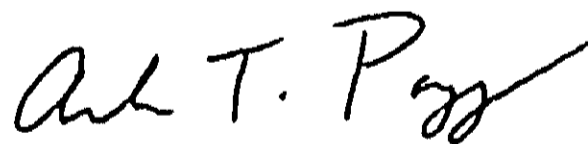
in its earlier protest. In two areas, however, the current solicitation contains the same provisions Logue challenged before.

The SFO required submission of initial proposals by November 12. Although Logue's protest letter was dated November 5, Logue used the wrong zip code for the address of the General Accounting Office (GAO). As a result, Logue's challenge to the terms of the SFO was not received in our Office until November 25, nearly 2 weeks after GSA received proposals.

Our Bid Protest Regulations require that protests based upon alleged improprieties in a solicitation which are apparent prior to the time set for receipt of initial proposals must be filed prior to the closing date set in the solicitation, 4 C.F.R. § 21.2(a)(1) (1991), as amended by 56 Fed. Reg. 3759 (1991). In addition, our Regulations specifically identify the necessary address and zip code for properly filing a protest at our Office, 4 C.F.R. § 21.1(b) (1991). Accordingly, we do not consider misaddressing a protest as a valid basis for failing to file a timely protest. Bio-Temp Sci., Inc.--Request for Recon., B-231358.2, June 10, 1988, 88-1 CPD ¶ 558; see also KACO Contracting Co.--Recon., B-228899.2, Nov. 2, 1987, 87-2 CPD ¶ 433 (GAO affirmed dismissal of protest for failure to file comments within 10 days of receipt of agency report where protester missed filing deadline after misaddressing comments by using wrong zip code).

As a result of Logue's failure to raise its challenge to this solicitation prior to the time GSA received initial proposals, we cannot now consider the protest.

The protest is dismissed.



Andrew T. Pogany
Acting Assistant General Counsel