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DECISION



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

FILE: B-188160

DATE: March 7, 1977

MATTER OF: Comten

DIGEST:

Protest that telephonic solicitation was inappropriate and improperly conducted, filed after closing date for receipt of initial proposals, is untimely and will not be considered on its merits, since basis for protest was known prior to that date.

Comten protests the manner in which the procurement of items under request for proposals (RFP) No. 2007, issued by the Federal Bureau of Investigation (FBI), was conducted. Comten states that on September 27, 1976, it was telephoned by the FBI and requested to submit a price quotation within the next few days for the items required. Comten complied on September 28. We have been advised that written proposals were due on October 15; however, on October 1 Comten was informed by the FBI that its price quotation was not within the competitive range for purposes of further consideration of any offer by Comten. On November 2, in response to a mailgram headed "Intent to Protest" from Comten dated October 25, in which Comten indicated concern with the conduct of the procurement, the FBI met with Comten and expressed its view that the solicitation had been issued, and the procurement otherwise conducted, in an entirely proper manner. Award under the RFP was made in December 1976 to Computer Communications, Inc.

Comten filed its protest in our Office on January 13, 1977. Comten contends that a telephonic solicitation was improper and inappropriate; a "formal procurement process" was not sufficiently established; the solicitation did not accurately reflect the FBI's needs; and the procurement was not in the best interests of the Government.

Section 20.2(b)(1) of our Bid Protest Procedures, 4 C.F.R. part 20 (1976) provides:

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"Protests based upon alleged improprieties in any type of solicitation which are apparent prior to * * * the closing date for receipt of initial proposals shall be filed prior to * * * the closing date for receipt of initial proposals. * * *"

The matters that are the subject of Comten's protest were apparent to Comten prior to October 15, when written proposals were due, and a protest should, therefore, have been filed by that date. Accordingly, the protest to our Office, filed January 13, 1977, is untimely and will not be considered on its merits.


Paul G. Dembling
General Counsel