

DECISION



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

FILE: B-216405

DATE: September 28, 1984

MATTER OF: Philips Information
Systems

DIGEST:

Protest that Commerce Business Daily synopsis for order against General Services Administration schedule contract did not permit sufficient time for sources to respond which was filed with GAO after closing date is untimely under 4 C.F.R. § 20.2 (1984).

By letter dated September 12, 1984, Philips Information Systems (Philips) protested the proposed order by ACTION of certain word processing systems and accompanying software from Sony Corporation of America (Sony) against General Services Administration (GSA) contract GS 00K840155679.

This proposed order was synopsisized in the August 8, 1984, issue of the Commerce Business Daily (CBD). The CBD announcement stated that firms could propose comparable equipment to meet the specific agency requirements. The CBD announcement also stated:

" . . . if no affirmative response is received in writing within fifteen calendar days after publication of this synopsis to the effect that a comparable source is available or that it is more advantageous to the government than purchasing from a schedule contractor, an order will be placed with SONY as set forth above. Oral communications concerning this announcement are not acceptable."

Philips protests that this CBD announcement permitting only a 15-day response period was a violation of Federal Procurement Regulations, 41 C.F.R. § 1-4.1109-6 (1983), Temporary Regulation 71, and Public Law 98-72, 97 Stat. 403 (1983), amending section 8(e) of the Small Business Act. Philips contends that this regulation and statute require a 30-day response period in this situation.

Our Bid Protest Procedures require that protests based upon alleged improprieties apparent in the solicitation be filed prior to the closing date for receipt of proposals. 4 C.F.R. § 20.2 (1984). Philips admits that it did not respond to ACTION until the sixteenth day following the CBD synopsis when it orally communicated with the contract specialist and ACTION has indicated no contact was made by Philips prior to the closing date stated in the synopsis. This Office has held that publication of a procurement in a synopsis in the CBD constitutes constructive notice of the solicitation and its contents. Micro Mil, Inc., B-202703, May 1, 1981, 81-1 C.P.D. ¶ 335. Where, as here, the synopsis serves as a solicitation for the agency requirements, the protester's failure to object to the terms prior to the closing date for receipt of offers renders the protest untimely. See CMI Corporation, B-206349, Mar. 8, 1982, 82-1 C.P.D. ¶ 212, and Data General, B-197776, July 21, 1980, 80-2 C.P.D. ¶ 53, which also concern CBD synopses of orders against GSA schedule contracts.

Therefore, Philips' protest against the terms of the synopsis is untimely and is dismissed.

Harry R. Van Cleve
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 Acting General Counsel