

DOCUMENT RESUME

02088 - [A7232221]

[Untimely Protest to Alleged Deficiencies in Procurement].
B-188840. April 28, 1977. 2 pp.

Decision re: Program Resources, Inc.; by Paul G. Dembling,
General Counsel.

Issue Area: Federal Procurement of Goods and Services (1900).

Contact: Office of the General Counsel: Procurement Law II.

Budget Function: General Government: General Property and
Records Management (804).

Organization Concerned: National Institutes of Health: National
Cancer Inst.

Authority: 4 C.F.R. 20.2(b)(1).

The protester objected to the procedures used for
procuring operating and maintenance services, complaining that
the request for proposals covered too large a scope of services
and had an anticompetitive effect. The protest was not
considered on its merits, because the protest was filed after
the closing date for the receipt of proposals, and is therefore
untimely and ineligible for consideration. (Author/SC)

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DECISION



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

*PC II
Bergen*

FILE: B-188840

DATE: April 28, 1977

MATTER OF: Program Resources, Inc.

DIGEST:

Protest alleging deficiencies in request for proposals which is filed after closing date for receipt of proposals is untimely and ineligible for consideration on merits.

Program Resources, Inc. (PRI) protests the procedures used by the National Cancer Institute for procuring operating and maintenance services at the Frederick Cancer Research Center (FCRC), Frederick, Maryland, pursuant to request for proposals (RFP) 263-77-P(66)-000.

PRI asserts that the RFP, which envisioned a single award to cover all aspects of operation and maintenance, was defective because the services to be procured under it are "too large in scope for anyone other than the incumbent contractor." PRI asserts that this has an anti-competitive effect, and that portions of the procurement should have been broken out for award to other firms. PRI further alleges that the RFP was defective because it did not provide for a requirement for negotiating and obtaining employment commitments from whatever employees of the incumbent contractor the offeror planned to use, of which PRI was informed only at a preproposal conference held on November 30 and December 1, 1976. PRI believes this requirement is also restrictive of competition.

All of these allegations relate to alleged deficiencies in the RFP. Section 20.2(b)(1) of our Bid Protest Procedures, 4 C.F.R. 20.2(b)(1) (1975), provides that a protest based upon an alleged impropriety in any type of solicitation, which is apparent prior to bid opening or the closing date for receipt of initial proposals, must be filed "prior to bid opening or the closing date for receipt of initial proposals." The protester states that the closing date was January 10, 1977. However, the protest was not

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filed until April 13, 1977. Accordingly, the protest is untimely and ineligible for consideration on the merits. In view of the allegation regarding the long-term (since 1972) noncompetitive situation involving the FCRC, the matter is being retained for whatever consideration is deemed appropriate during our on-going audit reviews.

Paul G. Dembling
Paul G. Dembling
General Counsel