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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

OFFICE OF GENERAL COUNSEL

B-203227.2

July 15, 1981

The Honorable Larry J. Hopkins
United States House of
Representatives
400 East Main Street
Lexington, Kentucky 40507

Dear Mr. Hopkins:

We refer to your letter dated June 5, 1981, enclosing correspondence from Professor Richard R. Clayton of the University of Kentucky. From the correspondence, it appears that Professor Clayton is associated with the Institute for Survey Research at Temple University (Temple). This organization submitted a proposal in response to request for proposals No. 271-81-1702, which was issued by the National Institute on Drug Abuse (NIDA) and solicited offers for a project entitled "National Survey on Drug Abuse." NIDA, however, rejected Temple's proposal as late and refused to consider it for the award. Professor Clayton protests this decision.

On May 8, 1981, Temple filed a protest with our Office arguing that, in view of the particular facts of this case, NIDA should consider its proposal even though the proposal was technically late. However, by decision of June 16, 1981, copy enclosed, we held that Temple's protest to our Office was untimely. Therefore, we dismissed the protest without considering it on the merits.

In light of this prior decision, we do not believe it is proper for us to consider on the merits Professor Clayton's protest, apparently submitted on behalf of Temple.

Our Bid Protest Procedures, 4 C.F.R. part 20 (1980), are intended to provide fair and equitable procedural standards for all parties to a protest.

[Request for Consideration of Late Proposal]

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They recognize that it is a serious matter to raise a legal objection to the award of a Government contract. At stake are not only the rights and interests of the protester, but those of the contracting agency and other interested parties as well. Our timeliness rules, therefore, are intended to provide for expeditious consideration of objections to procurement actions without unduly burdening and delaying the procurement process and, at the same time, permit us to decide the matter while it is still practicable to take effective action with respect to the procurement where circumstances warrant. Since Temple's protest was clearly untimely and did not raise any legal issues cognizable under the exceptions to our timeliness rules, 4 C.F.R. § 20.2(c) (1980), we dismissed the protest.

Concerning the applicability of our Bid Protest Procedures to protests filed by or referred to our Office by Members of Congress, no protest will be considered on its merits unless it first meets our timeliness rules. Again, the reason for this is to decide an issue while it is still practicable to take effective action if such action is found to be necessary. Moreover, if our Office were to consider an untimely protest on the merits when submitted by a Member of Congress, this would suggest to the procurement community that our timeliness provision can be circumvented by submitting the protest through a Member of Congress.

Therefore, in view of the general purpose of our timeliness rules, we believe that it would be inappropriate for our Office to consider the merits of Professor Clayton's protest since it is identical to the Temple protest which we previously dismissed as untimely.

Sincerely yours,

Harry R. Van Cleve
Acting General Counsel

Enclosure