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**DECISION**



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

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**FILE:** B-194574                      **DATE:** April 26, 1979  
**MATTER OF:** Marine Engineers Benevolent Association

**DIGEST:**

Post-award protest against alleged improprieties in RFP, including Department of Navy's failure to comply with requirements of Service Contract Act, which were apparent prior to closing date for receipt of proposals is untimely under § 20.2(b)(1) of our Bid Protest Procedures and, therefore, will not be considered by GAO.

Marine Engineers Benevolent Association (MEBA) protests the awards of contracts under requests for proposals (RFP) Nos. N00037-R-3001 and N00037-R-3002 by the Military Sealift Command, Department of the Navy, to Trinidad Lines. The procurements were for the worldwide operation of five T-5 class and four Columbia class oil tankers.

MEBA alleges that the Navy (1) failed to comply with the requirements of the Service Contract Act of 1965, 41 U.S.C. § 35, et seq. (1976); (2) failed to "clearly delineate within the RFP the line between evaluation criteria and responsibility criteria"; (3) failed to assign comparative weight to various criteria which may be or are in reality evaluating criteria; and (4) unduly restricted competition through the use of arbitrary and artificially rigid definitive criteria in the RFP.

The closing dates set for receipt of initial proposals for RFP's -3001 and -3002 were December 28, 1978, and January 11, 1979, respectively. Best and final offers were submitted and awards made on April 10, 1979. MEBA filed its protest with our Office

on April 10, 1979, and requested that the Navy cancel the awards and reissue the RFP's amended to conform with our decision on the protest.

Section 20.2(b)(1) of our Bid Protest Procedures, 4 C.F.R. part 20 (1978), states, in part:

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

The Navy's alleged failure to comply with the requirements of the Service Contract Act as well as the other allegations raised by MEBA involve alleged improprieties in the solicitation which were apparent prior to the closing dates for receipt of proposals. Since MEBA filed its protest with our Office subsequent to the award of the contracts (April 10) and not prior to the closing dates for receipt of proposals (December 28 and January 11), MEBA's protest is untimely and therefore not for consideration by our Office. Therefore, no useful purpose would be served in holding a conference as requested by the protester.

The protest is dismissed.

  
Milton J. Socolar  
General Counsel