

DECISION



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

10,285

FILE: B-194695

DATE: May 23, 1979

MATTER OF: Engineering and Economics Associates

DIGEST:

- 1. Protest not filed, either with contracting officer or with General Accounting Office, within 10 days after basis for protest is known is untimely filed and not for consideration on merits.
- 2. Where protest ^{of 2nd phase award} is filed prior to agency action adverse to protester's interests, protest is premature and not for consideration.

^{DLG 01650} Engineering and Economics Associates (EEA) ^{DLG-01651} protests the selection of Mueller Associates, Inc. ^{ACC 00912} (Mueller), for negotiation under request for proposals (RFP) No. DE-RP01-79EV-10002, issued by the Department of Energy (Energy). EEA objects to Energy's finding that its proposal was technically inferior to Mueller's for the "Conservation" work phase of the RFP and to Energy's failure to make award on the "Solar" work phase. Furthermore, EEA alleges that Energy improperly "judged" the EEA Solar proposal relative to the score given the conservation proposal submitted by Mueller."

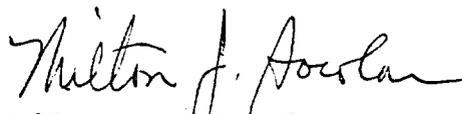
Concerning the first issue, the protest is untimely. Our Bid Protest Procedures require that a protest be filed, either with the contracting agency or with this Office, not later than 10 working days after the basis for protest is known. 4 C.F.R. § 20.2 (1978). Energy advised EEA by letter of March 27, 1979, that Mueller had been selected for negotiation. Shortly thereafter, on April 9, 1979, EEA was given a telephone conference debriefing regarding the matter. EEA's protest letter to our Office was not filed (received) until April 25, 1979. Therefore, the first issue is untimely filed and not for consideration on the merits. See Kings Point Manufacturing Company, Inc., B-191452, April 19, 1978, 78-1 CPD 306; Baytron Systems Corporation, B-192329, July 24, 1978, 78-2 CPD 67.

[Protester maintains THAT Proposal WAS NOT TECHNICALLY INFERIOR]

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With regard to EEA's complaint that Energy has failed to award a contract on the "Solar" work phase, our Office has been informally advised by Energy that as of this time, no selection of a firm has been made. As it appears no action has yet been taken by Energy which is adverse to EEA, we view this allegation of the protest to be premature. See Clifford Industries, Inc., B-191075, February 8, 1978, 78-1 CPD 107.

Accordingly, the protest is dismissed.


Milton J. Socolar
General Counsel