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DECISION



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

FILE: B-204308

DATE: September 14, 1981

MATTER OF: **Dynamech Systems, Division of
Dynalectric Company**

DIGEST:

1. Protest filed with GAO more than 10 working days after the protester received the contracting agency's denial of its protest to the agency is untimely and will not be considered on the merits.
2. Claim for proposal preparation costs will not be considered when submitted in conjunction with untimely protest.

Dynamech Systems, Division of Dynalectric Company (Dynamech), protests the exclusion of its proposal from consideration for the award of a contract for a projectile parts material handling system under request for proposals (RFP) No. 0044. The RFP was issued by Mason Chamberlain, Inc., pursuant to its contract with the Department of the Army to construct a Government-owned, contractor-operated ammunition plant.

Although our Office does review the award of subcontracts made "for" the Government by Government prime contractors which operate and manage Federal facilities, Dynamech's protest is untimely and will not be considered on the merits. Waterbury Farrel, Division of Textron, Inc., B-203798, July 24, 1981, 81-2 CPD 60; Sono-Tek Corporation, 58 Comp. Gen. 26 (1978), 78-2 CPD 290.

Mason Chamberlain received five proposals by the May 15, 1981, closing date and excluded only that of Dynamech from the competitive range and further consideration for the award. Award of the contract has been withheld pending resolution of the protest.

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By letters to the Army dated June 8 and 17, 1981, Dynamech asserted that Mason Chamberlain had rejected its proposal on the basis of cost notwithstanding that the RFP proposal evaluation criteria provided that technical factors would be given much more importance than proposal price. Dynamech requested either that the proposal be evaluated or that the firm be compensated for the cost of preparing the proposal.

The Army responded by letter of July 16, 1981, advising Dynamech that Mason Chamberlain had followed established regulatory procedures for determining the competitive range, that the protester's proposal price was at least twice that of the other offerors, and that there was no basis upon which to award Dynamech proposal preparation costs. Dynamech received the Army's letter on July 20, 1981. We received Dynamech's August 1 protest letter, which reiterates the firm's protest to the Army, on August 6, 1981.

Our Bid Protest Procedures, 4 C.F.R. § 21.2(a) (1981), require that, if a protest is initially filed with the contracting agency, any subsequent protest to our Office must be "filed" (received) within 10 working days after the firm receives notice of the contracting agency's initial adverse action on that protest. Because we did not receive Dynamech's protest within 10 working days of the protester's receipt of the Army's July 16 letter, the firm's protest is untimely. FML Analytical Division, B-202678, June 29, 1981, 81-1 CPD 537; Dutton & Associates P.C., B-201575, B-201576, January 27, 1981, 81-1 CPD 49.

Although Dynamech also claims the cost of preparing its proposal, our Office will not consider such a claim submitted in connection with an untimely protest. Lee Roofing Co., B-201154, March 16, 1981, 81-1 CPD 197; see also The Land Group of Salt Lake City, B-202423, April 16, 1981, 81-1 CPD 296.

The protest is dismissed and the claim is denied.

Harry R. Van Cleve
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Acting General Counsel