

DECISION



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

*Golden
PC-I
31734*

FILE: B-219008.2 **DATE:** July 23, 1985
MATTER OF: Taurio Corporation

DIGEST:

1. A protest not filed within 10 working days after the protester knew or should have known of the basis for protest is untimely and will not be considered.
2. GAO will not consider the merits of an untimely protest nor invoke the "significant issue" or "good cause" exceptions to timeliness requirements where the untimely protest does not raise issues of first impression which would have widespread significance to the procurement community and no compelling reason beyond protester's control prevented timely filing.

Taurio Corporation (Taurio) protests award of two contracts under request for proposals (RFP) No. N00102-84R-0614 issued by the Department of the Navy (Navy).

We dismiss the protest.

The RFP called for the award of a primary and secondary contract for design support service for Naval Nuclear Submarine planning and overhaul. The Navy awarded the primary contract to Advanced Marine Enterprises, Inc. (Advanced), and the secondary contract to Eckhart Engineering Associated.

On June 18, 1985, Taurio filed a protest with our Office. Taurio stated that it was protesting for the same reasons as those contained in a protest against this RFP filed by Art Anderson Associates (Anderson) on May 30, 1985. Anderson essentially contended that the technical evaluation was biased against Anderson. Anderson submitted documents which it believes show "manipulation in the technical evaluation process" which result in improper contract awards to firms other than the lowest priced offerors.

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Taurio also asserted that it was not rated sufficiently high under the evaluation factor for experience, which advised that firms with nuclear submarine experience would be rated higher than those without that experience. Taurio claims it has this type of experience, but Advanced was ranked higher than Taurio, although Advanced has limited experience in nuclear submarine work. Taurio further alleged that the Technical review committee took exception to Taurio's "top heavy management team," although it's personnel and cost proposal was ranked second overall. Taurio also challenged its low technical rating for quality assurance and facilities.

The Navy has advised us that on May 21, 1985, Taurio received a debriefing from the contracting officer. The Navy states, and Taurio does not dispute, that it received all of the evaluation and ranking information which forms the basis of its protest against the technical evaluation of its offer on that date. The Navy argues that Taurio's protest filed on June 18, 1985, more than 10 working days after Taurio know its basis of protest is untimely. The Navy also argues that Taurio's other ground of protest merely duplicates Anderson's protest. The Navy states that these allegations have been addressed by the Navy in its report filed on July 5, 1985, on the Anderson protest and that no purpose is served by allowing a second firm to repeat them. We agree with the Navy.

Taurio admits that based on the debriefing it believed the Navy's awards were "illogical and arbitrary," but decided that, because of the wide discretion given source selection decisions, it would not prevail if it protested the awards. Taurio states that it was only after it received a copy of the Anderson protest, and the documents submitted by Anderson, that it believed it could prove that the Navy's evaluation was unreasonable, and thus filed its protest in which it requests the same relief as Anderson, an impartial reevaluation of offers.

Under our Bid Protest Regulations, a protest other than apparent solicitation improprieties, must be filed not later than 10 days after the basis of the protest is known or should have been known, whichever is earlier. 4 C.F.R. § 21.2(a)(2) (1985). Taurio does not dispute that it was advised by the Navy of the information which gave rise to its objections to the technical evaluation and ranking during the May 21 debriefing. Thus, Taurio's protest filed on June 18, more than 10 working days after the debriefing, is untimely.

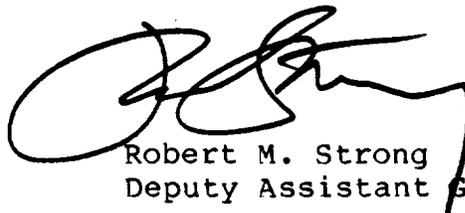
Taurio requests that, if we find Taurio's allegations untimely, we consider the protest under 4 C.F.R. § 21.2(c), which provides that our Office, for good cause shown, or where we determine a protest raises issues significant to the procurement system, may consider any protest which is not filed timely.

In order to invoke the significant issue exception to our timeliness rules, the subject matter of the protest must not only evidence a matter of widespread interest or importance to the procurement community, see, e.g., Willamette-Western Corp.; Pacific Towboat and Salvage Co., 54 Comp. Gen. 375 (1974), 74-2 C.P.D. ¶ 259, but also must involve a matter which has not been considered on the merits in a previous decision. Birdsboro Corp., B-218100, Feb. 11, 1985, 85-1 C.P.D. ¶ 180. We do not view this protest, which essentially involves the validity of the evaluation of competing proposals, as raising a significant issue. See NDE Technology, Inc., B-216419, Sept. 24, 1984, 84-2 C.P.D. ¶ 345.

Furthermore, the good cause exception is limited to circumstances where some compelling reason beyond the protester's control prevents the timely filing of a protest. Knox Manufacturing Co.--Request for Reconsideration, B-218132.2, Mar. 6, 1985, 85-1 C.P.D. ¶ 281. This is not the case here.

We dismiss the protest.

We note that Taurio filed as an interested party under the Anderson protest, and ordinarily under our Bid Protest Regulations, Taurio would be given an opportunity to comment on the agency report on that protest which was filed at GAO on July 5, 1985, 4 C.F.R. § 21.3 (c), and also it may have benefited from any remedy recommended by our Office if Anderson prevailed on its protest. However, Anderson's protest was dismissed, in accordance with our Bid Protest Regulations, 4 C.F.R. § 21.3(e), because Anderson failed to file comments on the agency report within 7 days after receipt of the report.



Robert M. Strong
Deputy Assistant General Counsel