

DECISION

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

FILE: B-219644.2

DATE: October 9, 1985

MATTER OF: Standard Elektrik Lorenz
Aktiengesellschaft

DIGEST:

1. Protest based upon alleged improprieties in a solicitation which are apparent prior to the closing date for receipt of initial proposals must be filed prior to that closing date in order to be timely.
2. Protest that agency failed to conduct preaward survey on protester, filed more than 10 working days after the basis for protest--notice that award was made to another offeror--is known, is dismissed as untimely.
3. Protest that agency may have revealed protester's prices to the other offerors will not be considered where it is based on unsupported speculation only.

Standard Elektrik Lorenz Aktiengesellschaft (SEL) protests the Department of the Army's (Army) award of a contract to the Siemens AG-AT&T consortium, under request for proposals No. DAJA37-84-R-0430 for the installation of key telephone systems in the Federal Republic of Germany. We dismiss the protest.

SEL and six other firms submitted offers by the January 14, 1985, closing date for receipt of initial proposals. SEL also responded to the Army's subsequent request for a best and final offer (BAFO), with a closing date of April 23, and to the request for a second BAFO, with a closing date of June 27.

On July 29, SEL received notice from the Army that award had been made to Siemens AG-AT&T. On August 12, SEL received a debriefing from contracting officials as to why its proposal was not accepted.

By letter of August 28, SEL set forth a number of deficiencies it perceived in the solicitation and in the negotiations, requesting the agency to take these into

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consideration "should any protest of our competitors lead to a review of the project." In particular, SEL argued that it should have been permitted to offer per diem rates based upon the distance to the worksite, that the solicitation provisions relating to the evaluation of labor hours and installation material were defective, that the request for a second BAFO was improper, and that contracting officials failed to conduct a preaward survey or meet with SEL prior to making award to Siemens AG-AT&T.

By letter of September 7, the Army defended its actions. Shortly thereafter, SEL learned that two of its competitors, San/Bar Corporation and Engineering and Professional Services Incorporated (EPS) had filed protests with our Office, B-219644.1 and B-219657, respectively, concerning the award to Siemens AG-AT&T. SEL subsequently filed this protest with our Office on October 2.

SEL initially alleges that the procurement was improper for the reasons set forth in its August 28 letter to the agency.

Our Bid Protest Regulations, 4 C.F.R. part 21 (1985), require protests based upon alleged improprieties in a solicitation which are apparent prior to the next closing date for receipt of proposals to be filed before that date in order to be timely. 4 C.F.R. § 21.2(a)(1). Protests based upon other improprieties must be filed not later than 10 working days after the basis for protest is known or should have been known, whichever is earlier. 4 C.F.R. § 21.2(a)(2). Since SEL did not protest the deficiencies in the solicitation prior to the next closing date or the failure to conduct a preaward survey or meeting within 10 days of learning of the award to Siemens AG-AT&T, these grounds of protest are untimely. See Employment Perspectives, B-218338, June 24, 1985, 85-1 C.P.D. ¶ 715.

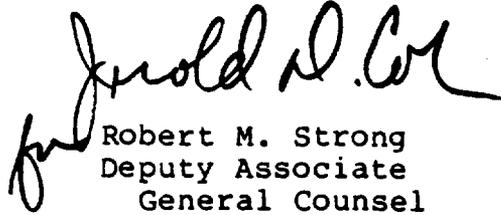
In its protest to our Office, SEL also refers to an allegation in EPS's protest that the prices in EPS's offer were known almost immediately after the offer was submitted. SEL states that:

" . . . [i]f the government confirms this grave assertion it cannot be excluded that also SEL prices were possibly known to the competitors and it would be obvious that this fact was

disadvantageous for SEL in respect of a correct project award."

SEL has submitted no evidence to show that government action resulted in its prices being revealed to its competitors to SEL's competitive disadvantage. SEL's unsupported speculation does not warrant our considering the matter further. See Alan Scott Industries, B-219096, June 20, 1985, 85-1 C.P.D. ¶ 706.

The protest is dismissed.


Robert M. Strong
Deputy Associate
General Counsel