

W. H. Melody

DECISION



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

FILE: B-222866

DATE: April 24, 1986

MATTER OF: ECON, Inc.

DIGEST:

Protest is dismissed as untimely where it is evident from the date of the protest letter that it was received by the General Accounting Office more than 10 working days after the protester was aware of the grounds of its protest.

ECON, Inc. protests the award of a contract to AAA Engineering and Drafting, Inc. under request for proposals (RFP) No. 5-SP-30-03800 issued by the Department of the Interior for updating of the Lower Colorado River riparian vegetation-type maps between Davis Dam and the Mexican border. We dismiss the protest.

The contracting officer advised the protester that award had been made to AAA by letter dated February 25, 1986. By letter dated February 27, the protester asked the contracting agency for copies of the abstract of proposals, documentation regarding the evaluation of proposals, and the awardee's proposal. On March 7, the agency provided some of the requested materials to the protester, but withheld disclosure of the awardee's proposal and documents related to the agency's evaluation of the proposal on the ground that they contained proprietary information. By letter dated March 13, the protester renewed its request for the withheld documents, disputing the agency's position that they contained proprietary information. The agency informally advises us that it confirmed its decision not to disclose the withheld documents in a letter to the protester dated March 28.

The protest filed with our Office challenges the agency's refusal to release the withheld documents and the failure to incorporate the awardee's technical proposal into the contract. The protest letter is dated April 3, indicating that as of that date the protester was aware of

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the grounds of its protest. The protest was not received in our Office, however, until April 18, more than 10 working days after April 3.^{1/}

Under section 21.2(a)(2) of our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1985), protests such as this one must be filed within 10 working days after the basis of protest is or should have been known. Since the protester failed to file its protest with our Office within 10 working days after it was aware of its grounds of protest on April 3, its protest is untimely.

The protest is dismissed.



Ronald Berger
Deputy Associate
General Counsel

^{1/} The envelope in which the protest was sent is postmarked April 15.