



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Oak Ridge Associated Universities

**File:** B-238411

**Date:** February 14, 1990

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A. Wohlpart, for the protester.  
Barbara Timmerman, Esq. and John Brosnan, Esq., Office of  
the General Counsel, GAO, participated in the preparation of  
the decision.

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### DIGEST

Protest is untimely where not filed until 2 months after  
protester received information from contracting agency  
pursuant to Freedom of Information Act which put protester  
on notice of grounds of protest.

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### DECISION

Oak Ridge Associated Universities protests the award of a  
contract to Southeastern Center for Electrical Engineering  
Education under request for proposals (RFP) No. F49620-  
89-R-0002, issued by the Air Force for the administration of  
a laboratory graduate fellowship program. Oak Ridge  
essentially contends that the Air Force improperly evaluated  
the proposals.

We dismiss the protest as untimely.

The RFP was issued on March 28, 1989. By letter of July 25,  
the agency informed the protester, one of five offerors,  
that award had been made to Southeastern. By letter to the  
Air Force dated August 8, Oak Ridge asked, pursuant to the  
Freedom of Information Act (FOIA), for all documentation  
concerning Southeastern's proposal. The Air Force replied  
by letter dated September 26, providing at that time and  
shortly thereafter those portions of Southeastern's proposal  
that it determined were releasable under FOIA.

On November 22, Oak Ridge appealed the agency's decision not  
to release Southeastern's proposal in full. It stated in  
that appeal that the Southeastern materials it had received  
seemed in general "nonresponsive" to the RFP and that where

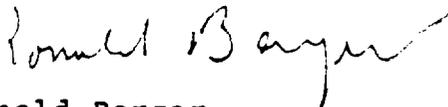
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the RFP asked for specific information Southeastern had apparently provided little or none. According to the protester, the Air Force replied by letter dated January 22, 1990, advising Oak Ridge that its appeal had been forwarded to another office for decision.

On January 25, Oak Ridge protested to our Office that Southeastern's proposal was not acceptable under the RFP because it did not contain specific information required by the solicitation, unlike its own proposal which the protester asserts provided a detailed management and administration plan.

Where a protest is based on information disclosed pursuant to FOIA, the protest will be considered timely if it is filed within 10 working days after the information is received, provided the protester diligently pursued release of the information under FOIA. Troglodyte Society, Inc., B-227407 et al., June 25, 1987, 87-1 CPD ¶ 632, aff'd, Troglodyte Society, Inc.--Request for Recon., B-227407.3, July 29, 1987, 87-2 CPD ¶ 113. Here, by November 22 at the latest, Oak Ridge was aware of the basis of its protest since it indicated in its letter of that date that it believed Southeastern's proposal was deficient. The fact that Oak Ridge did not receive all the information to which it believed it was entitled did not toll our timeliness rules--since Oak Ridge had sufficient information upon which to base its protest by November 22, it was required to file its protest within 10 days of that date. See Farrell Lines, Inc.--Recon., B-220442.2, Dec. 2, 1985, 85-2 CPD ¶ 619. As Oak Ridge did not file its protest until January 25, more than 2 months later, its protest on these grounds is untimely. Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1989); Systems Research Laboratories, Inc., B-229968, Mar. 21, 1988, 88-1 CPD ¶ 293.

The protest is dismissed.



Ronald Berger  
Associate General Counsel