



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: East West Research Inc.

File: B-237990

Date: March 1, 1990

Richard Snyder, for the protester
Louise E. Hansen, Esq., Office of the General Counsel,
Defense Logistics Agency, for the agency
David Hasfurther, Esq., and John Brosnan, Esq., Office of
the General Counsel, GAO, participated in the preparation of
the decision.

DIGEST

1. Protest that a source listed in request for quotations (RFQ) is not a manufacturer is untimely since it was filed more than 10 working days after a contracting agency letter advised the protester that only manufacturers could be listed as sources in RFQs.
2. Protest that source listed in solicitation was improperly approved first raised more than 6 months after closing date and subsequent award is dismissed as untimely since the matter was not diligently pursued.

DECISION

East West Research Inc. protests the award of a purchase order to Welding Specialty Parts under request for quotations (RFQ) No. DLA400-89-T-C967, issued by the Defense General Supply Center (DGSC), Defense Logistic Agency, for the purchase of collets for use on welding torches. East West contends that the supplier of the collet offered by the awardee is not its manufacturer.

We dismiss the protest as untimely.

The RFQ, issued on May 18, 1989, required quotations to be submitted by June 8. Seven manufacturers and their part numbers were listed in the RFQ as being acceptable sources for the collet. Welding Specialty Parts, the low offeror, quoted on supplying a part from one of the listed sources, Speciality Machine Co. Accordingly, on June 19 a purchase order was issued to that firm. On July 31, East West protested this award to DGSC on the basis that the awardee's

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supplier of the collet was not its manufacturer. East West based its position on a June 7 letter from DGSC's Chief of Technical Services which advised that the agency would only include actual manufacturers in its RFQ item descriptions. According to the letter, a manufacturer was an entity which made a significant contribution to the fabrication of, or which controlled the design of, the item. After failing to obtain a response to its protest, East West protested the matter to our Office on December 7.

East West's protest is untimely and will not be considered. Our Bid Protest Regulations provide that protests must be filed not later than 10 working days after the basis of protest is known or should have been known, whichever is earlier. 4 C.F.R. § 21.2(a)(2) (1989). The Regulations also provide that, if the protest was initially filed with the contracting agency, the protest filed with our Office will be considered only if it was filed timely with the agency. 4 C.F.R. § 21.2(a)(3). East West's protest is based on the listing in the RFQ, which the protester had in May and the information contained in the agency's June 7 letter, which East West received on or about June 10. Since East West's initial protest to the agency was clearly filed more than 10 working days after the protester received this letter which along with the RFQ contained all the information needed to file the protest, the initial protest to the agency was untimely filed. East West Research Inc., B-237992, Feb. 26, 1990, 90-1 CPD ¶ ____. Accordingly, we will not consider the protest. Paragon Dynamics, Inc., B-235567, May 24, 1989, 89-1 CPD ¶ 504.

We note that in its comments on the agency's report to our Office East West for the first time alleges that the data submitted by the awardee to get its source listed on the RFQ was inadequate. This issue is also untimely since the protester knew in May when it received the RFQ that Specialty Machine was listed as an acceptable source. If the protester objected to that listing it was incumbent upon it to pursue diligently information needed to protest that listing. It did not raise the issue until January 22, more than 6 months after the due date for the quotations and the subsequent award. We therefore dismiss this protest issue as untimely. G.A. Brown, Inc., B-216645, Feb. 21, 1985, 85-1 CPD ¶ 218.

The protest is dismissed.

Michael A. Golden
For

Ronald Berger
Associate General Counsel