

ms. Lebowitz



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** M-NST-Susanville BLM, Inc.

**File:** B-240660

**Date:** December 4, 1990

---

Allan Henriques, Esq., for the protester.  
Sherry Kinland Kaswell, Esq., Department of the Interior, for the agency.  
Linda S. Lebowitz, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

---

### DIGEST

Protest that the contracting officer's decision to conduct a resolicitation for the same requirement for office and storage space instead of awarding a contract to protester, the next low and the only remaining offeror under the original solicitation, is dismissed as untimely where protester did not file its protest until more than 10 working days after receiving notice of the contracting officer's decision.

---

### DECISION

M-NST-Susanville BLM, Inc. protests the decision of the contracting officer under solicitation for offers (SFO) YA-651-LSO-90001, issued by the Department of the Interior, Bureau of Land Management, for office and storage space in Susanville, California, to conduct a competitive procurement for the same requirement. The protester essentially argues that the contracting officer's decision to resolicit, instead of awarding it a contract as the next low and the only remaining offeror under the original solicitation, was unreasonable and not in the best interest of the government.

We dismiss the protest.

The solicitation was issued on February 20, 1990, and the closing date for receipt of offers was March 29. The solicitation advised that award would be made to the lowest-priced offeror meeting the requirements of the solicitation. The protester and Sonpark Associates submitted offers within the competitive range. Both firms indicated that they were purchase option holders for the respective property sites offered for the building development. On May 7, the agency awarded a contract to Sonpark, the lowest-priced offeror, and notified the protester of the award. Following the award, on June 20, Sonpark orally advised the contracting officer that it would be unable to purchase the property site which it offered for the building development. Sonpark offered to provide the same building development at another site, but the contracting officer responded that this was not acceptable. By letter dated June 25, and received by the protester on June 28, the contracting officer advised that the agency would be conducting a competitive reprocurement to acquire the necessary office and storage space. This protest was filed on August 3.

The protester argues that the contracting officer's decision to resolicit for the required office and storage space instead of awarding it the contract was unreasonable and not in the best interest of the government.

Our Bid Protest Regulations require that protests must be filed with our Office not later than 10 working days after the basis of protest is known. 4 C.F.R. § 21.2(a)(2) (1990); see White Water Assocs., Inc., B-240274; B-240275; Oct. 15, 1990, 90-2 CPD ¶ \_\_\_\_\_. With respect to the contracting officer's decision to resolicit the requirement instead of awarding a contract to the protester, the record shows that the protester was aware of the contracting officer's decision on June 28. Consequently, this protest regarding the contracting officer's decision to resolicit the agency's requirement which was filed with our Office on August 3--more than 1 month after the

protester's receipt of the contracting officer's letter--is untimely.1/

Accordingly, the protest is dismissed.

*Michael R. Golden*

Michael R. Golden  
Assistant General Counsel

---

1/ The protester's argument that the initial award to Sonpark was unreasonable because the agency knew Sonpark did not have legal title to the property which it offered is academic because the award to Sonpark was terminated for default. Further, the fact that Sonpark's contract was not actually terminated until July 16, 1990, is not relevant since the protester was advised of the contracting officer's decision to terminate Sonpark's contract and to resolicit by June 28. In its initial letter of protest, the protester claimed it filed an agency-level protest in July. However, the record, as fully developed, shows that no protest was filed.