



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Compadre Pipeline Corporation

**File:** B-244636.2

**Date:** October 30, 1991

William J. Taylor, III, Esq., Hutcheson & Grundy, L.L.P.,  
for the protester.

Robert A. McElroy, Jr., for Unocal Corporation, an  
interested party.

L. James Tillman, Department of Energy, for the agency.  
Mary G. Curcio, Esq., Office of the General Counsel, GAO,  
participated in the preparation of the decision.

### DIGEST

Protest is dismissed where, contrary to protester's  
factually erroneous belief, protester did not submit the  
lowest evaluated price for oil distribution services.

### DECISION

Compadre Pipeline Corporation protests the award of  
contracts to Texaco Pipeline, Inc. and Unocal Corporation  
under request for proposals (RFP) No. DE-RP96-91P015551,  
issued by the Department of Energy (DOE) for crude oil  
distribution services.

We dismiss the protest.

The RFP was issued on December 19, 1990, for crude oil  
distribution services for a maximum of 700,000 barrels per  
day for a possible 20-year term. Initial proposals were due  
on May 15, 1991. The RFP provided for award to the  
technically acceptable offeror who proposed the lowest  
evaluated price. Section M of the solicitation provided  
details concerning how prices would be evaluated. On  
August 20, Compadre received notice from DOE that it was not  
selected for award because it did not propose the lowest  
cost.

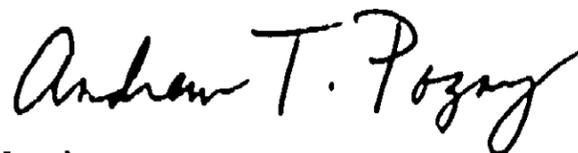
On August 30, Compadre protested to our Office. Compadre  
alleged that, according to its calculations, it proposed the  
lowest evaluated cost and thus was entitled to negotiate a  
contract with DOE. Compadre also argued that DOE did not  
evaluate the offers in accordance with the RFP criteria  
because it did not consider distribution and movement  
services.

DOE submitted a report in response to the protest. In that report, DOE explains that the price proposals were evaluated by a computer program that was developed to evaluate the price proposals in accordance with the evaluation scheme in the RFP. DOE states that Compadre's calculations, upon which it bases its protest, do not correctly reflect escalation of certain costs required for evaluation. DOE states that, based on a proper evaluation, Compadre's offer was in fact not low.

The record shows that DOE did evaluate the offers in accordance with the solicitation criteria and considered distribution and movement services in the evaluation. The record further shows that Compadre's evaluated price was not low either under DOE's evaluation method or under Compadre's evaluation method. Accordingly, we dismiss the protest because it is simply based on an erroneous factual assumption, that is, that Compadre's evaluated offer was low.

Compadre also questions the evaluation methodology announced in the RFP and asserts that even if it did not submit the lowest price, its offer was "close enough" to the awardees' offers to require DOE to negotiate a contract with Compadre. The RFP, however, clearly stated the basis of evaluation and award (lowest-priced, technically acceptable offeror). Accordingly, Compadre's protest concerning the evaluation methodology is untimely because it was not submitted prior to May 15, the closing time for the receipt of initial proposals. 4 C.F.R. § 21.2(a)(1) (1991), as amended by 56 Fed. Reg. 3759 (1991); Engelhard Corp., B-237824, Mar. 23, 1990, 90-1 CPD ¶ 324.

The protest is dismissed.



Andrew T. Pogany  
Acting Assistant General Counsel