



Comptroller General  
of the United States

521112

Washington, D.C. 20548

## Decision

**Matter of:** SUMMA Technology, Inc.

**File:** B-259017.2

**Date:** December 1, 1994

### DECISION

SUMMA Technology, Inc. protests the award of a contract to Vista Technology, Inc. under request for proposals (RFP) No. DAAH01-94-R-0068, issued by the Department of the Army. The contract is for the conversion of the Army's Land Combat Support System Test Program Sets to the Integrated Family of Test Equipment, the current automatic test equipment standard used by the Army. Award was based upon a "best value" evaluation scheme, which encompassed four evaluation factors--technical, past performance, cost, and management--in descending order of importance. Vista, whose low-cost proposal was found to represent the best value, received the award of a cost-plus-incentive-fee contract for the required services.

We dismiss the protest as untimely because it was filed more than 10 days after the protester knew, or should have known, of the basis for its protest.

On September 30, SUMMA was provided notice that Vista was the successful offeror at a proposed cost of \$2,783,130.<sup>1</sup> SUMMA then requested and received a debriefing, which was held on October 7. At the debriefing, Army personnel provided SUMMA with a packet of source selection information. This information included (1) a summary of the evaluation plan and the adjectival rating scheme used in the technical evaluation of proposals; (2) a detailed narrative summary of SUMMA's proposal evaluation, plus the adjectival ratings accorded to the proposal under each evaluated factor and subfactor; (3) a narrative description of Vista's proposal strengths, plus the adjectival ratings accorded to Vista's proposal under each evaluated factor and subfactor; (4) the identification of SUMMA's probable cost as \$4,695,520; and (5) the identification of Vista's probable cost as \$3,160,029.

<sup>1</sup>SUMMA's proposed cost was \$4,549,476.

By letter dated November 16 (received by our Office on November 23), SUMMA protests that the agency improperly evaluated Vista's probable cost and that Vista cannot perform the contract at this cost. In addition, the protester alleges that the Army improperly evaluated offerors' past performance, asserting that Vista received too much credit for past performance, while SUMMA received too little. SUMMA first raised these issues in its protest to our Office, filed on November 23, 1994. As indicated above, SUMMA had all the information in its possession to assert these grounds of protest as of its October 7, 1994, debriefing, more than 10 days before its November 23 protest. Specifically, as of its October 7 debriefing, SUMMA knew that Vista's proposed and probable costs were substantially lower than its own, yet SUMMA waited more than 10 days, until November 23, to protest the agency's probable cost analysis of Vista's low-cost offer. Likewise, SUMMA waited more than 10 days to protest the agency's relative past performance evaluation, even though SUMMA discovered at its debriefing the reasons underlying its own and Vista's past performance evaluation.<sup>2</sup>

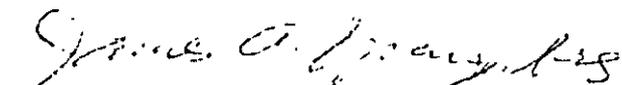
Our Bid Protest Regulations contain strict rules requiring timely submission of protests. Under these rules, protests not based upon alleged improprieties in a solicitation must be filed no later than 10 working days after the protester knew, or should have known, of the basis for protest. 4 C.F.R. § 21.2(a)(2) (1994). Our timeliness rules reflect the dual requirements of giving parties a fair opportunity to present their cases and resolving protests expeditiously without unduly disrupting or delaying the procurement

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<sup>2</sup>SUMMA submitted a letter to the agency on October 7, described as a "Notice of Potential Protest," in response to the debriefing. SUMMA does not contend, nor do we find, that this letter constituted an agency-level protest. The letter did not object to any of the Army's findings disclosed at the debriefing and did not request any relief or other action by the agency; rather, the letter advised that SUMMA intended to submit, for discovery purposes, a list of additional questions which the agency did not answer at the debriefing. See Palmer Contracting--Recon., B-256461.2, Apr. 29, 1994, 94-1 CPD ¶ 284. In any event, even if we were to treat the letter as an agency-level protest, it contains none of the allegations which SUMMA later raised with our Office. These allegations were first raised in SUMMA's November 23 protest to our Office, more than 10 days after the debriefing, and thus do not satisfy our timeliness requirements. See Robinson Eng'g & Constr., Inc., B-245995, Feb. 4, 1992, 92-1 CPD ¶ 145.

process. Air Inc.--Recon., B-238220.2, Jan. 29, 1990, 90-1  
CPD ¶ 129. In order to prevent those rules from becoming  
meaningless, exceptions are strictly construed and rarely  
used.

The protest is dismissed.

  
James A. Spangenberg  
Assistant General Counsel