



Comptroller General
of the United States

301235

Washington, D.C. 20548

Decision

Matter of: Hexatron Engineering Co., Inc.

File: B-261396

Date: May 24, 1995

DECISION

Hexatron Engineering Co., Inc. protests the award of a contract to Texas Precision Manufacturing, Inc. by the Department of the Air Force under request for proposals (RFP) No. F42630-94-67669.

We dismiss the protest as untimely.

The RFP restricted award to qualified sources, but permitted interested parties to submit a qualification package with their proposals in order to become qualified, stating that the acquisition would "not be delayed to allow a contractor to become a qualified source unless determined to be in the best interest of the government."

Four offerors, including Texas Precision, submitted qualification packages with their proposals by the December 9, 1994, closing date. Texas Precision's package was approved and award was made to Texas Precision as the qualified, low priced offeror on May 4, 1995. The protester argues that this award violates the above-quoted RFP provision concerning delay to allow a contractor to become a qualified source.

Our Bid Protest Regulations contain strict rules requiring timely submission of protests. These rules specifically require that protests based upon alleged improprieties in a solicitation which are apparent prior to the closing date for receipt of initial proposals must be filed prior to the closing time. 4 C.F.R. § 21.2(a)(1) (1995); Engelhard Corp., B-237824, Mar. 23, 1990, 90-1 CPD ¶ 324.

Here, in fact, the RFP plainly provided that the acquisition could be delayed in order to qualify a source if it was in the best interests of the government to do so.¹ Thus, the

¹While the agency notes that the award was not delayed solely to allow the awardee to qualify, the agency states that it was in the best interests of the government to delay award in order to obtain the benefit of the lower price.

action the protester alleges was improper--that the agency delayed contract award to qualify a source--was expressly permitted by the terms of the solicitation. Because the protester did not protest until after award, its protest is untimely and not for consideration on the merits.



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Assistant General Counsel