

Becker



Comptroller General  
of the United States  
Washington, D.C. 20548

# Decision

**Matter Of:** E.P.A. Transportation Services, Inc.  
**File No.:** B-262035  
**Date:** July 20, 1995

## DECISION

E.P.A. Transportation Services, Inc. protests the Department of the Navy's actions in connection with solicitation No. N68171-95-R-A028. E.P.A. alleges that the solicitation should have been set aside for small businesses and that although the solicitation provided for award on a best value basis, best value was never defined. E.P.A. also contends that the award is improper because it offered a lower price.

We dismiss the protest.

E.P.A.'s challenges—that the solicitation should have been set aside and the factors for award were not properly defined—are untimely. Under our Bid Protest Regulations, protests based on alleged improprieties in a solicitation must be filed prior to the closing time. 4 C.F.R. § 21.2(a)(1); Engelhard Corp., B-237824, Mar. 23, 1990, 90-1 CPD ¶ 324. In this case, the closing date for receipt of proposals was March 7, 1995. The instant protest was not filed until July 14, after award. Therefore, this aspect of the protest is untimely and will not be considered.

E.P.A. also contends that the Navy improperly made award to a higher priced offeror. A protester's assertion that it should have received the award solely because it offered a lower price or cost than did the awardee fails to state a valid basis for protest where the solicitation provided that award would be based on technical factors as well as on cost. In negotiated procurements, unless the request for proposals so specifies, there is no requirement that award be based on lowest cost. Stewart-Warner Elecs. Corp., B-235774.2, Dec. 27, 1989, 89-2 CPD ¶ 598.

Since the solicitation here did not provide for award solely on the basis of cost, the protest is dismissed.

*Ronald Berger*  
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