



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: ACRO-TECH, Inc.

File: B-270506

Date: December 11, 1995

DECISION

ACRO-TECH, Inc. protests the Environmental Protection Agency's (EPA) rejection of its proposal submitted under EPA Fiscal Year 1995 Small Business Innovation Research Program (SBIR) solicitation No. D500001M1 in response to Topic G: Pollution Prevention.

We dismiss the protest as untimely because it was filed more than 14 calendar days after the protester knew, or should have known, the basis for its protest.

The EPA announced its SBIR award selections in early October 1995. On October 13, the protester—who had not been selected—contacted the contracting officer and asked her to send the firm the results of the agency's technical evaluation for its proposal. On October 16, by facsimile, the contracting officer transmitted a copy of the agency's 1-page "PROPOSAL TECHNICAL EVALUATION" form to the protester; the 1-page summary set forth a detailed discussion of ACRO-TECH's proposal deficiencies.

By facsimile to the contracting officer dated October 18, ACRO-TECH requested a telephone conference to discuss EPA's failure to award the firm a 1995 SBIR contract. ACRO-TECH also stated that in the same conference, it wanted to discuss the agency's failure to award the firm a contract under the prior year's 1994 SBIR contract. On November 9, EPA sent ACRO-TECH a second copy of the "PROPOSAL TECHNICAL EVALUATION" form it had provided to the protester on October 16, along with a list of the contractors who had been awarded contracts under the 1995 SBIR program. On November 13, ACRO-TECH filed this protest at our Office. In its protest, ACRO-TECH essentially argues that the reasons set forth in the "PROPOSAL TECHNICAL EVALUATION" summary for the agency's rejection of its proposal are a sham, and that the protester was not awarded either a 1994 or a 1995 SBIR contract award as a result of bias by one of the agency's contracting officials.

Our Bid Protest Regulations contain strict rules requiring timely submission of protests. Under these rules, protests not based on alleged improprieties in a solicitation--such as ACRO-TECH's current challenge to the EPA's rejection of its proposal--must be filed no later than 14 calendar days after the protester knew, or should have known, of the basis for protest, whichever is earlier. Section 21.2(a)(2), 60 Fed. Reg. 40,737, 40,740 (Aug. 10, 1995) (to be codified at 4 C.F.R. § 21.2(a)(2)).

In this case, the record shows that ACRO-TECH first received the written evaluation summary which forms the basis for its current protest on October 16. To be timely, ACRO-TECH should have filed its current protest within 14 calendar days of its receipt of that document--or by Monday, October 30. Instead, ACRO-TECH delayed filing its protest until over 2 weeks later; consequently, its protest is untimely.¹

The protest is dismissed.

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¹To the extent ACRO-TECH challenges its failure to receive a 1994 SBIR contract award, its protest is similarly untimely as this ground was not raised until more than a year after it learned of the rejection of its 1994 SBIR proposal.