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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-193359

DATE: December 26, 1978

MATTER OF: Manalytics, Inc.

DLG 00206

*[Failure to Provide Specific Grounds of Protest Within 5 Working Days of
Receipt of GAO Request]*

DIGEST:

Protester filed timely protest but failed to state any specific grounds for protest. GAO requested detailed statement of specific grounds of protest within 5 working days of receipt of GAO request but statement was furnished 9 working days late, 21 working days after protest was initially filed, and 28 working days after protester knew bases for protest. Therefore, protest is dismissed.

By mailgram dated October 27, 1978, filed with our Office on October 30, 1978, Manalytics, Inc., protested against award of a contract pursuant to request for proposals (RFP) No. DOA01-78-00-3029, issued by the Department of Commerce (Commerce). Manalytics did not indicate any grounds for its protest, but stated that it had filed a Freedom of Information Act (FOIA) request with Commerce and would provide our Office with the detailed grounds of its protest after receipt of the information requested from the agency. By letter of November 3, 1978, we requested that the protester furnish additional details of the specific grounds of its protest within 5 working days after receipt of our letter, as provided in section 20.2(d) of our Bid Protest Procedures (4 C.F.R. part 20 (1978)). By letter dated November 8, 1978, filed in our Office on November 13, 1978, Manalytics indicated that it had received our November 3, 1978, letter, but that it had not yet received any information from Commerce pursuant to its FOIA request, and that it would not provide the specific grounds of its protest until it had received the information from Commerce under the FOIA. Manalytics also requested that we maintain an open file on its protest until Manalytics received the information it had requested under the FOIA from Commerce. By letter dated November 20,

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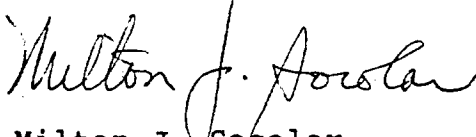
1978, we informed Manalytics that we were closing our file on its protest due to Manalytics' failure to furnish a detailed statement of the specific grounds of its protest as we had requested in our November 3, 1978, letter. We further indicated that if Manalytics believed, upon receipt of information under the FOIA request, it had enough specific information to form the basis of a protest, we would then consider the protest, if filed in a timely manner. By letter dated November 27, 1978, filed with our Office on November 30, 1978, the protester provided our Office with the specific grounds of its protest even though it indicated that it had not yet received any information from Commerce under its FOIA request.

Manalytics' letter of November 27, 1978, indicates that Manalytics learned the bases for its protest on October 19, 1978, when it met with the contracting officer and discussed the reasons why award had been made to another company on September 29, 1978. Essentially, the protester disagrees with the contracting officer's decision to award the contract to the offeror with the lowest price rather than to Manalytics even though Manalytics' proposal scored significantly higher on the technical evaluation performed by the Maritime Administration's technical staff. Manalytics contends that, even when Manalytics' higher price was taken into account by the evaluation committee, Manalytics' proposal received a higher total score than the awardee's proposal. Manalytics protests the contracting officer's award to the other offeror on the ground that the contracting officer should not have reversed the Maritime Administration technical evaluation committee's recommendation that Manalytics should be awarded the contract.

Since the protester's November 8, 1978, letter indicated receipt of our November 3, 1978, request for details, those details should have been provided to our Office within 5 working days of November 8, 1978 (by November 16, 1978, at the latest). The details of the protest were not filed until November 30, 1978--9 working days later. The detailed statement was not filed in our Office until 21 working days after the original protest communication was filed. Most importantly, since the contracting officer met with and discussed the procurement award with representatives of the protester on

October 19, 1978, the protester knew the bases for its protest on that date. However, the detailed grounds of the protest were not furnished to our Office until 28 working days later. We see no reason why the protester could not have prepared a brief written statement detailing the specific grounds of its protest within the 5 working days allowed by our Office. Moreover, it appears that the information requested of the Department of Commerce under the FOIA was not necessary in order for the protester to tell us the bases of its protest since the protester still has not received such information. See California National Air Service, Inc., B-189343, September 12, 1977, 77-2 CPD 185. Accordingly, we believe our action of November 20, 1978, closing the file on the protest was proper.

In view of the foregoing, the protest is dismissed.



Milton J. Socolar
General Counsel