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DECISION



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

[Protest of Agency Rejection of Final Offer For Late

FILE: B-202056

DATE: March 4, 1981

MATTER OF: Enviro Control, Inc.

DIGEST:

Protest filed with GAO almost 1 month after date of agency letter confirming decision that proposal was received late is untimely and not for consideration on merits.

4 C.F.R. § 20.2(b)(2) (1981).

The Veterans Administration (VA) issued request for proposals (RFP) 101(34)-14-80 for a literature review of phenoxy herbicides and associated dioxins. Enviro Control, Inc. (Enviro), the protester here, submitted a proposal on July 25, 1980.

After evaluation of the proposals the VA determined that Enviro was in the competitive range. The VA requested that Enviro submit a best and final offer which was to be received at the designated location by 3:30 p.m. on November 25, 1980.

Enviro submitted its best and final offer by commercial carrier; however, according to the VA Enviro's offer was received late.

By letter dated December 11, 1980, the VA informed Enviro that its best and final offer was received late, and consequently, it would not be considered. On December 16, 1980, apparently pursuant to a request from the VA, Enviro sent a letter to the contracting officer and enclosed documentation from its commercial carrier. The documentation allegedly shows that Enviro's best and final offer was timely received by the VA.

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By letter of January 6, 1981, the VA confirmed its decision not to consider Enviro's best and final offer. This confirmation was adverse agency action and provided the basis for a protest. On February 5, 1981, or almost a month later, Enviro filed a protest with our Office.

Our Bid Protest Procedures, 4 C.F.R. § 20.2(b)(2) (1981), provide that bid protests shall be filed not later than 10 days after the basis for protest is known or should have been known, whichever is earlier. Since Enviro's protest to our Office was filed almost 1 month after the VA's letter confirming its decision that the proposal was late, Enviro's protest is untimely and not for consideration on the merits.

Accordingly, the protest is dismissed.

Milton J. Socolar
Milton J. Socolar
For the General Counsel