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DECISION



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

FILE: B-204243

DATE: October 28, 1981

MATTER OF: Twigg Corporation

DIGEST:

Protest based on alleged negotiation deficiencies filed more than 10 working days after protester received written notice of award to another firm and copies of documentation concerning the award process is untimely and not for consideration on the merits.

Twigg Corporation protests the award of a contract to Tri-Industries under Request for Proposals (RFP) No. F41608-81-R-8502 issued by the Department of the Air Force. As bases for its protest, Twigg alleges that several deficiencies occurred during the negotiation process. For example, among other things Twigg complains that no negotiations were conducted with it, and that no best and final offer was requested. In response to the protest, the Air Force has raised a threshold procedural matter contending that Twigg's protest should be dismissed as being untimely filed under our Bid Protest Procedures. For the following reasons, we agree with the Air Force.

Our Bid Protest Procedures require that protests must be received by the contracting agency or our Office, as the case may be, not later than 10 working days after the basis of the protest is known or should have been known, whichever is earlier. 4 C.F.R. § 21.2(b)(2) (1981).

The Air Force submits the following chronology of events in this case:

"Two proposals were received, one from Tri-Industries and the other from the Twigg Corporation. Tri-Industries was determined to be the low 'responsive and responsible' offeror and a contract was awarded to them on 29 May 1981.

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Notice to the unsuccessful offeror was sent on 29 May 1981 and a Commerce Business Daily synopsis of contract award was initiated on 15 June 1981. In addition, the Twigg Corporation was provided copies of Tri-Industries offer and correspondence between Tri-Industries and the Air Force on 6 July 1981."

Twigg does not dispute this chronology and notes that it received the Air Force's July 6 correspondence on July 9.

Since Twigg's protest concerns allegations of deficiencies in the negotiation process, we believe Twigg knew or should have known of the bases for these allegations when it received the agency's May 29 letter advising it of the award to Tri-Industries. Certainly it knew or should have known of its bases for protest on July 9, at the latest, when it received the information from the Air Force concerning negotiations with the eventual awardee, Tri-Industries.

Twigg argues that the Air Force's July 6 correspondence provided incomplete information on its bases for protest because a requested copy of a pre-award survey report on Tri-Industries was not included. In our view, however, the contents of a pre-award survey report, which concerns the responsibility of Tri-Industries, has no bearing on the complaints raised by the protester. Because the protest was not filed (received in our Office) until August 3, it is untimely and will not be considered on the merits.

The protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel