

**DECISION**



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

**FILE:** B-215308.3

**DATE:** October 22, 1984

**MATTER OF:** Dyneteria, Inc.

**DIGEST:**

When a protest alleging that an agency determined improperly that a proposal was unacceptable is filed more than 1 month after the agency mailed to the protester a letter of unacceptability, the protest is untimely.

Dyneteria, Inc. protests the rejection of the proposal it submitted in response to request for proposals No. F41689-84-R-0004, issued by Randolph Air Force Base, Texas.

The solicitation sought a contractor to operate the Base Supply Facility at Sheppard Air Force Base, Texas. The agency issued the solicitation as part of an Office of Management and Budget (OMB) Circular A-76 cost comparison to determine whether government or contractor operation of the facility would be more economical. Dyneteria submitted a proposal, but by letter dated May 11, 1984, the agency informed the firm that its proposal was unacceptable because it did not explain adequately how the required work would be accomplished. Dyneteria filed a protest with this Office on June 14, contending that its proposal did indeed explain how the work would be accomplished and that the Air Force must have either misapplied or failed to apply the solicitation's evaluation criteria. The Air Force contends that Dyneteria's protest is untimely. We agree.

Our Bid Protest Procedures provide that protests other than those alleging solicitation improprieties must be filed, with either the agency or this Office,

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B-215308.3

not later than 10 working days after the basis for the protest is known or should have been known. 4 C.F.R. § 21.2(b)(2) (1984).

In this case, the basis for Dyneteria's protest is the rejection of its proposal for what the agency said in its May 11 letter was a failure to describe how the work would be accomplished. Although the protester does not say when it received the May 11 letter, we presume the firm received it within a reasonable time of when it was mailed, see United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry, B-211916, June 27, 1983, 83-2 CPD ¶ 29, and we note that submissions to this Office from four other offerors to whom letters of unacceptability were mailed on May 11 indicate that the agency's letters to them were received on either May 14 or 15. We note further that Dyneteria does not refute the Air Force's argument that this protest is untimely. Moreover, since Dyneteria did not file its protest until June 14, over 1 month after the notice of unacceptability was mailed, the protest is untimely and will not be considered. Schlegel Associates, Inc., B-213739, June 28, 1984, 84-1 CPD ¶ 688.

The protest is dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
General Counsel