

DECISION

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

FILE:

B-218180

DATE: March 4, 1985**MATTER OF:**

Electro-Methods, Inc.

DIGEST:

1. Protest of alleged award 9 months before protest's filing is dismissed where protester fails to present factual basis for its allegation or any basis to believe the protest is timely.
2. GAO will not consider a protest about an agency's decision to evaluate a firm's product before qualifying the firm as a source, and about the alleged delay in the evaluation, since under its bid protest authority GAO reviews objections to specific solicitations or awards, neither of which is involved here.

Electro-Methods, Inc. protests a sole-source contract allegedly awarded in May 1984 by the Department of the Air Force's San Antonio Air Logistics Center to Pratt and Whitney for plate retaining turbines, which apparently are replacement parts for F-100 engines. The protester cites an Air Force "Part Number Advanced Planning List" that lists a fiscal year 1985 requirement for 33,588 of Pratt and Whitney's turbines at a 1985 value of more than \$4.8 million, and a fiscal year 1986 requirement for the same quantity, as a basis for its knowledge of the sole-source award as well as the subsequent issuance of delivery orders.

We dismiss the protest.

First, it is entirely speculative, based on the Air Force's planning document alone, whether any award actually was made. The planning document is undated, does not indicate whether or not the 1985 quantities are merely projected requirements, and does not identify any award date. We therefore are at a loss to explain the protester's allegation of a May 1984 award and the issuance of subsequent delivery orders. We point out in this respect that a

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protester has the burden of setting forth the factual basis for its protest. Bid Protest Regulations, § 21.1(c)(4), 49 Fed. Reg. 49,417, 49,420 (1984) (to be codified at 4 C.F.R. § 21.1(c)(4)).

Second, there is no basis to believe the protest is timely. To be timely, a protest of a sole-source award must be filed within 10 working days after the basis for protest was known or should have been known, whichever is earlier. Bid Protest Regulations, § 21.2(a)(2). Further, the protester must have diligently pursued the information forming the basis for the protest. South Bend Lathe, Inc., B-216356, Sept. 24, 1984, 84-2 C.P.D. ¶ 343. If the protester failed to do so within a reasonable time, we will dismiss an ultimately-filed protest as untimely. Id.

Electro-Method's protest was filed approximately 9 months after the alleged award, without any explanation of why we should consider the protest timely. In fact, the protest suggests that Electro-Methods otherwise closely monitors the government's purchases of the items in issue. While the protest does state that a review of the Air Force's planning list revealed the delivery orders on January 31, 1985, the protest does not explain when Electro-Methods obtained the list or through what efforts. Under the circumstances, we see no reason to believe either that the protest was filed in a timely manner, or that the basis for it was pursued diligently.

Electro-Methods also complains that the Air Force, apparently beginning in 1982, consistently has refused to approve the firm as a source without first evaluating Electro-Method's product, and also has delayed the evaluation process. We will not consider the matter, however. Under our bid protest authority, our Office considers objections only to specific solicitations or awards. See Bid Protest Regulations, § 21.1(a). The protester's complaint involves neither situation.

The protest is dismissed.


Ronald Berger
Deputy Associate General Counsel