

DECISION



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

FILE: B-220891.2

DATE: December 16, 1985

MATTER OF: The Dunham Tool Company, Inc.--Reconsideration

DIGEST:

Prior dismissal of a protest for failure to state a valid basis for protest is affirmed where protester merely alleged that it should have been awarded the contract but failed to take any exception to the agency's evaluation of proposals. Request for reconsideration, which offers additional details, will not be opened as a separate protest where request does not independently constitute a timely protest.

The Dunham Tool Company, Inc. (TDTC) requests reconsideration of our decision in The Dunham Tool Company, Inc., B-220891, Nov. 1, 1985, 85-2 CPD ¶ _____. Our decision dismissed TDTC's protest because we found that TDTC had failed to state a basis for protest in accordance with 4 C.F.R. § 21.1(c)(4) (1985). We affirm the decision.

TDTC's protest concerns the award of a contract to the Warner and Swasey Company (WSC) under solicitation No. USM85-22 issued by the Department of the Treasury. In its original protest to our Office, TDTC stated that its technical competence and proposed pricing warranted awarding the contract to TDTC. TDTC did not detail any specific areas of its proposal in which it believed it was not properly evaluated but merely alleged that the agency did not allow sufficient time for its own personnel to evaluate proposals and that there was not sufficient time to permit a detailed personal presentation of TDTC's equipment and capabilities.

TDTC's initial protest letter showed that although TDTC submitted the lowest cost proposal, its technical proposal was not highly rated. We noted that in a negotiated procurement award need not be made to the lowest cost offeror, and since there was no specific allegation concerning the evaluation of TDTC's proposal or that the award to WSC was not made in conformance with the solicitation's evaluation criteria, we saw no basis to consider the matter. Furthermore, while TDTC argued that the agency

should have allotted more time to evaluate proposals, TDTC did not in any way detail how this adversely impacted on the evaluation of its proposal.

In its reconsideration request, TDTC states that it had clearly protested the agency's determination that TDTC did not have the technical experience or competence to supply the proposed equipment. TDTC also alleges that inadequate discussions were held and that its low technical rating demonstrates that the agency improperly changed the solicitation's evaluation criteria.

We acknowledge that under our regulations no formal briefs or technical pleadings are required. 4 C.F.R. § 21.1(e). Nevertheless, protest submissions must clearly state legally sufficient grounds for protest and the failure to do so may result in dismissal of the case. 4 C.F.R. § 21.1(f); see Roller Bearing Co. of America, B-218414.2, May 14, 1985, 85-1 CPD ¶ 542. TDTC's initial protest letter failed to meet this standard. With respect to the agency's evaluation of TDTC's experience and competence, TDTC simply stated that those factors appear "to have been a major apprehension" by the agency. TDTC did not even allege that the agency's conclusions were in error. Furthermore, no question was raised in that letter concerning the adequacy of the discussions which were conducted nor was there any allegation made that the agency's evaluation deviated from the stated evaluation criteria.

With respect to the amount of time spent by the agency evaluating proposals, we concluded that this did not constitute a valid basis for protest absent any indication as to why the evaluation could not have been completed within the time frame set by the agency. TDTC alleged that the time spent by the agency was inadequate for a fair or proper evaluation but failed to detail what aspects of its proposal, if any, the agency failed or did not properly consider as a result. The suggestion that TDTC's proposal was not properly evaluated because the agency awarded the contract within 5 working days after the receipt of best and final offers is, in our view, pure speculation.

Furthermore, we are unaware of any requirement that an agency permit an offeror to formally present, in person, its proposal to the contracting agency. In any event, TDTC's request for reconsideration indicates that the agency repeatedly rejected TDTC's requests in this regard and to the extent TDTC is alleging that a personal presentation should have been provided for in the solicitation, the allegation is also untimely. It was apparent from the

solicitation, as well as the agency's actions, that no personal presentation would be permitted and as an alleged solicitation impropriety, it was incumbent upon TDTC to raise this issue prior to the closing date for receipt of proposal. 4 C.F.R. § 21.2(a)(1).

Accordingly, we affirm our prior decision dismissing TDTC's protest. While the information contained in TDTC's reconsideration request may be considered as the basis of a new protest, the additional allegations made must independently satisfy our timeliness rules. The record shows that the agency conducted its debriefing on October 10, 1985, and TDTC has not alleged in its reconsideration request that the information which is now asserted as a basis for protest was not provided at that time. Since the reconsideration request was not filed until November 21, it cannot be viewed as presenting a timely protest.

Harry R. Van Cleve

Harry R. Van Cleve
General Counsel