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DECISION



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

FILE: B-222648

DATE: June 24, 1986

MATTER OF: M. Dyer and Sons, Inc.

DIGEST:

Protester fails to diligently pursue information which forms the basis of its protest that the awardee's facilities are in a flood area where that information was available at the time of award and the protest is filed more than four months later.

M. Dyer and Sons, Inc. protests the award of a contract to DeWitt Transfer and Storage Company under request for proposals (RFP) No. N00604-85-R-0131, issued by the Department of the Navy for the procurement of storage facility services. M. Dyer complains that DeWitt is not a responsible contractor because its storage facilities are below the 100-year flood plain level.

We dismiss the protest.

M. Dyer states that DeWitt did not comply with Item E1 of the RFP which referenced Department of Defense Regulation (DOD Reg.) 4500.34R. That regulation requires, among other things, that the contracting agency obtain a report from the appropriate U.S. Army Engineer District to determine whether the prospective contractor's facility is in a 100-year flood plain. Facilities with floor levels below that of the flood plain are not to be approved.

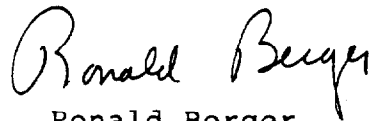
M. Dyer complains that DeWitt's facility is below the flood plain as shown by a flood insurance rate map issued by the Federal Insurance Administration, Department of Housing and Urban Development. M. Dyer also states that DeWitt's facility was actually flooded on or about April 19, 1974 and that goods stored there were damaged.

We note that although the award was made in January 1986, M. Dyer did not file its protest until June 9. Our Bid Protest Regulations require that a protest of an allegedly improper award must be filed within 10 working days after the basis of protest was known or should have

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been known, whichever is earlier. 4 C.F.R. § 21.2(a)(2) (1986). In this regard, protesters have a duty to diligently pursue information which forms the basis of their protests within a reasonable time. Eng'g and Professional Servs., B-219657 et al., Dec. 3, 1985, 85-2 CPD ¶ 621. Since the RFP required compliance with DOD Reg. 4500.34R and the alleged flooding of the awardee's facility occurred 12 years ago, we think diligent pursuit of the basis for protest should have provided M. Dyer with the necessary information concerning the location of DeWitt's warehouse and its relationship to the 100-year flood plain well before May 28, the date on which M. Dyer claims it actually became aware of the basis. We note that M. Dyer offers no explanation of why it did not allegedly know of its basis for protest before that date.

The protest is dismissed.



Ronald Berger
Deputy Associate
General Counsel