



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Rochester Instrument Systems, Inc.

File: B-224913.2

Date: November 10, 1986

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### DIGEST

Where protest is initially submitted without a detailed statement of the legal and factual grounds of protest, but is subsequently followed by a letter that includes the requisite detailed explanation, timeliness of the protest must be measured from the date of receipt of the detailed statement. Protest is dismissed as untimely when the detailed statement of protest basis is filed more than 10 working days after the protester learned of the basis of its protest.

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### DECISION

Rochester Instrument Systems, Inc. (Rochester), protests the rejection of its proposal from the competitive range, and the award of a contract to another offeror under request for proposals (RFP) No. DE-RP65-86WG35264 issued by the Department of Energy, Western Area Power Administration (DOE), for two digital fault recording systems.

We dismiss the protest as untimely.

Our Office has been notified by DOE that by letter dated September 19, 1986, DOE notified Rochester that its proposal was eliminated from the competitive range due to four specific technical deficiencies. In addition, Rochester commented on DOE's rejection of its proposal in a letter to DOE dated September 24. By letter dated September 25, DOE notified Rochester of the award under the RFP to the Hathaw Corporation.

On October 7, Rochester filed a protest with our Office. However, because Rochester merely recited the facts of award action itself, such as the solicitation number, contract amount, and the successful offeror, but did not state any legal and factual basis of protest, on 0

we dismissed the protest pursuant to our Bid Protest Regulations due to Rochester's failure to state a protest basis. See 4 C.F.R. § 21.1(c)(4) and (f) (1986).

On October 16, Rochester again filed a protest, however, this time adequately stating a basis for its protest, namely that its proposal offered to meet the government's minimum needs, its proposal should not have been rejected from the competitive range, and therefore award should be made to Rochester at a cost savings to the government.

Our Bid Protest Regulations require that protests based upon other than alleged solicitation improprieties be filed not later than 10 working days after the basis of protest is known or should have been known, whichever is earlier. 4 C.F.R. § 21.2(a)(2) (1986); Taft Broadcasting Corp., B-222818, July 29, 1986, 86-2 C.P.D. ¶ 125. Since Rochester's letter to DOE, dated September 24, evidences that by September 24 Rochester was aware that it was rejected from the competitive range and therefore ineligible for award, it was incumbent upon Rochester to file its protest no later than October 8, 10 working days from September 24. 4 C.F.R. § 21.2(a)(2); Taft Broadcasting Corp., B-222818, supra.

Rochester did not file what properly could be considered a protest under our Regulations until October 16, when we received Rochester's detailed statement of its protest grounds. See Ballantine Laboratories, Inc.--Request for Reconsideration, B-224735.2, Oct. 9, 1986, 86-2 C.P.D. \_\_\_\_\_. Since October 16 is well beyond the 10 working days after Rochester learned of its rejection from the competitive range, the October 16 protest is untimely and will not be considered. Ballantine Laboratories, Inc.--Request for Reconsideration, B-224735.2; supra; A&M Instrument, Inc.--Request for Reconsideration, B-220167.2, Sept. 30, 1985, 85-2 C.P.D. ¶ 359.

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