



**The Comptroller General  
of the United States**

Washington, D.C. 20548

---

## **Decision**

**Matter of:** Troglodyte Society, Inc.  
**File:** B-227407; B-227408; B-227409  
**Date:** June 25, 1987

---

### **DIGEST**

1. Protest is untimely where not filed until 3 months after protester received information from contracting agency pursuant to Freedom of Information Act which put protester on notice of grounds of protest.
2. Protest challenging alleged defect in solicitation is untimely where not filed before proposal due date.
3. Authority to determine what information must be disclosed under the Freedom of Information Act is vested in contracting agency.

---

### **DECISION**

Troglodyte Society, Inc., protests the awards of several contracts made in July 1986 under request for proposals (RFP) Nos. DAAK70-86-R-0060, DAAK70-86-R-0061, and DAAK70-86-R-0062, all issued by the Department of the Army for mine detection research.

We dismiss the protests.

The challenged awards were made between July 8 and 11, 1986. By letter dated October 7, in response to requests by Troglodyte beginning in June, the Army provided the firm with the names of the awardees and the other unsuccessful offerors under the RFPs. By letter to the Army dated October 24, Troglodyte asked for copies of the awardees' proposals pursuant to the Freedom of Information Act (FOIA). The Army replied by letter dated February 27, 1987, providing those portions of the awardees' proposals which it had determined were releasable under FOIA. Troglodyte responded by letter dated March 9, objecting to the Army's decision not to release the proposals in full and challenging the acceptability of the proposals on several grounds. The Army replied by letter dated April 17, advising Troglodyte that it was reviewing the withheld

039296

material to determine if additional portions were releasable.

On June 8, 1987, Troglodyte filed its protest with our Office. Troglodyte complains that the portions of the awardees' proposals that it has seen do not contain adequate descriptions of the experience of the firms' personnel. The protester also notes that the award prices seem extremely low; seems to object to the proposed method of signal processing; and complains that the solicitation provisions requiring mine detection experience restricted competition. The protester finally challenges the Army's decision not to release in full the awardees' proposals.

Where a protest is based on information disclosed pursuant to FOIA, the protest will be considered timely if it is filed within 10 working days after the information is received, provided that the protester diligently pursued the release of the information under FOIA. Automation Mgt. Corp., B-224924, Jan. 15, 1987, 87-1 C.P.D. ¶ 61. Here, Troglodyte did not request release of the awardees' proposals under FOIA until October 24, approximately 2 weeks after it was notified of the award results. Even assuming that its FOIA request was made diligently, Troglodyte's protest was not filed until more than 3 months after it received the portions of the awardees' proposals released by the Army under FOIA. Since Troglodyte did not file its protest until June 8, more than 3 months later, its protest on these grounds is untimely. See Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1986); Sperry Corp., B-225492, et al., Mar. 25, 1987, 87-1 C.P.D. ¶ 341.

To the extent that Troglodyte challenges the experience requirement in the RFPs as unduly restrictive, the protest also is untimely, since it involves an alleged solicitation deficiency, which under our Bid Protest Regulations must be filed before the closing date for initial proposals. 4 C.F.R. § 21.2(a)(1); The International Association of Fire Fighters, B-224324, Jan. 16, 1987, 87-1 C.P.D. ¶ 64.

Finally, with regard to Troglodyte's complaint regarding the Army's failure to release the awardees' proposals in full, the authority to determine what information must be disclosed under FOIA is vested in the contracting agency, not our Office; a protester's recourse after an agency's denial of its request for documents is to pursue the

remedies provided in FOIA. Actus Corp./Michael O. Hubbard  
and L.S.C. Associates, B-225455, Feb. 24, 1987, 87-1 C.P.D.  
¶ 209.

The protests are dismissed.

*Ronald Berger*

Ronald Berger  
Deputy Associate  
General Counsel