

Petrovito



The Comptroller General  
of the United States

Washington, D.C. 20548

# Decision

Matter of: Microeconomic Applications, Inc.

File: B-229749.2

Date: February 19, 1988

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## DIGEST

When a protester fails to diligently pursue information that would form the basis for its protest, a protest filed 5 months after notice of rejection of its proposal is untimely.

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## DECISION

Microeconomic Applications, Inc. (MAI), protests its failure to receive award under request for proposals (RFP) No. 50-SABE-6-07950, issued by the Department of Commerce on behalf of the Minority Business Development Agency (MBDA) for research studies on minority-owned businesses. MAI asserts that Commerce improperly evaluated its proposal and that the Director of MBDA improperly intervened in the evaluation of proposals.

We dismiss the protest as untimely.

The RFP, issued July 15, 1986, contemplated the award of an undetermined number of cost-plus-fixed fee contracts for research studies on minority-owned businesses. The closing date for receipt of proposals was August 14, 1986. MAI's proposal, along with 12 other proposals, was found to be in the competitive range. Best and Final Offers (BAFO) were requested from offerors in the competitive range with October 20, 1987, as the closing date for receipt of BAFO.

Between October 20 and May 22, 1987, Commerce reviewed its available funding and performed technical evaluation of the proposals. On May 22, MAI telephoned Commerce's contract negotiator and was informed that its proposal would not be accepted but that no awards had yet been made. MAI was also informed that it would receive written notification when awards were made under the RFP.

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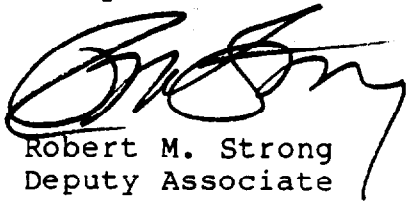
Commerce subsequently awarded five contracts under the RFP between May 29, 1987, and August 31, 1987. Commerce states that it mailed to unsuccessful offerors, including the protester, a notification of awards letter, dated September 2, 1987, which informed offerors of the awardee, contract amounts, research study subjects and the reason for the offerors' failure to receive award. MAI states that it did not receive the September 2 letter until November 30, 1987. MAI wrote Commerce three times between October 8 and November 20, 1987, seeking information concerning awards under the RFP. After receipt of the September 2 letter, on November 30, MAI requested a debriefing which was held on December 11. MAI filed its protest on December 14, 1987.

Our Bid Protest Regulations require that bid protests be filed within 10 days after the basis of protest is known or should have been known, whichever is earlier. 4 C.F.R. § 21.2(a)(2) (1987). Commerce contends that the protest is untimely because, by its own admission, MAI was on notice as of May 22 that its proposal would not be accepted and was required to file its protest within 10 days of that date. Commerce also argues that MAI has failed to diligently pursue the information upon which its protest is based. MAI argues that its protest was timely because the protest was filed within 10 days of the date on which it received the September 2 letter informing it of the basis of its protest.

A protester has an affirmative obligation to pursue diligently the information that forms the basis of its protest, and if it does not do so within a reasonable time, our Office will dismiss the protest as untimely. Continental Telephone Company of California, B-222458.2, Aug. 7, 1986, 86-2 CPD ¶ 167.

We do not find that MAI diligently pursued the basis of its protest. The record indicates that between May 22 (when it learned that its proposal would not be accepted) and October 8--a period of approximately 5 months--MAI made no attempt to obtain information concerning the reasons for the rejection of its proposal.

The protest is dismissed.

  
Robert M. Strong  
Deputy Associate  
General Counsel