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**DECISION**



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

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**FILE: B-188768**

**DATE: November 15, 1977**

**MATTER OF: Lion Recording Services, Inc. -- Reconsideration**

**DIGEST:**

1. Prior decision dismissing protest as untimely is affirmed. Protester was, or should have been, sufficiently aware of basis of protest upon receipt of agency's notice of award to another firm to have filed protest with GAO without benefit of further explanation of agency's rejection of protester's bid. Protest filed with GAO more than 10 working days after protester's receipt of notice of award, but within 10 days after receipt of explanation obtained through Congressman, is untimely and not for consideration on merits.
2. Congressional letter to contracting agency requesting information necessary to respond to protester's request for explanation of rejection of firm's bid merely initiated informational exchange between Congressman and agency and did not constitute bid protest to agency on protester's behalf.

Lion Recording Services, Inc. (Lion), has requested reconsideration of our decision in Lion Recording Services, Inc., B-188768, August 12, 1977, 77-2 CPD 114, dismissing as untimely its protest against award of contract No. IA-18257-22 by the United States Information Agency (USIA) to Rodel Audio Services (Rodel) for sound recording, transfer and mixing services and materials for the period March 11, 1977, through March 10, 1978, resulting from invitation for bids (IFB) No. 29-22-7.

The IFB was issued on January 4, 1977, with bid opening on February 3, 1977. Lion was the apparent low bidder. After a preaward survey on February 22, 1977, however, USIA telephonically informed the protester that the firm's premises were deficient with regard to certain equipment and facilities required by the IFB specifications. Because Lion denied the deficiencies, a second survey was conducted on February 24, 1977, which USIA asserts confirmed the findings of the initial survey. Having therefore concluded that an award to Lion would not be in the agency's best interests, USIA awarded the contract to

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Rodel, the second low bidder, on March 4, 1977. USIA notified Lion of the award by letter of the same date, which the protester received on March 5, 1977.

By letter dated March 9, 1977, Lion requested an explanation for the rejection of the firm's bid from its congressional representative, without further contacting USIA. The Congressman, in turn, sought information responsive to Lion's request from the procuring activity by letter of March 14, 1977, to which USIA replied on March 29, 1977, stating that Lion's bid was rejected on the basis of the findings of the second preaward survey. A copy of USIA's response was forwarded to Lion and was received by the protester on April 4, 1977.

We concluded from the record that the fact that USIA conducted two preaward surveys and discussed factors related to responsibility with Mr. Lion clearly indicated to the protester the agency's doubts regarding the firm's capacity to perform the contract and that upon receipt of the notice of award to Rodel (March 5, 1977), Lion reasonably knew or should have known the basis for the protest, notwithstanding the absence of an express explanation in the agency's notice of award. Because Lion filed its protest with our Office on April 5, 1977, we viewed the protest as untimely in accordance with section 20.2(b)(2) of our Bid Protest Procedures, 4 C.F.R. § 20.2(b)(2) (1976), which requires that:

"\* \* \* bid protests shall be filed not later than 10 days after the basis for protest is known or should have been known, whichever is earlier."

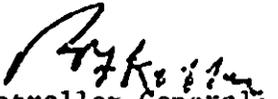
Lion now contends that the congressional inquiry of March 14, 1977, constitutes a protest to USIA filed within 10 working days of receipt of the agency's notice of award and that the protest is therefore timely and entitled to consideration on the merits. We cannot agree with the protester's characterization of the letter in question.

We have consistently held that a request, whether before our Office or the contracting agency, need not contain the exact words of protest before it can be considered a bid protest. See e.g. B-176717(1), February 8, 1973; Johnson Associates, Inc., 53 Comp. Gen. 518, 519 (1974), 74-1 CPD 43; George C. Martin, Inc., B-182175, July 21, 1975, 75-2 CPD 55. At a minimum, however, a request should reasonably be understood as the lodging of specific exceptions to the questioned procedures or actions. Focom, Inc., B-185345, March 25, 1976, 75-1 CPD 196; TM Systems, Inc., 56 Comp. Gen. 300, 305 (1977), 77-1 CPD 61.

Although Lion's March 9 letter to the congressional representative expressed the opinion that USIA's rejection of the firm's bid was an unfair ruling, the protester's salient concern was that the agency gave no reason for the rejection. Similarly, the congressional inquiry sought sufficient information from USIA to respond to Lion's letter. We believe that the congressional inquiry, which enclosed a copy of Lion's March 9 letter, merely initiated an informational exchange between the Congressman and USIA, and did not constitute a protest. Moreover, USIA does not appear to have understood these letters to be a protest. Eocon, Inc., supra.

We remain of the opinion that Lion was, or should have been, sufficiently aware of the basis for its protest at the time of receipt of USIA's notice of award to have filed the protest without benefit of further explanation. While Lion continues to dispute our finding that the tenor of the conversation during the second survey should have indicated that there was doubt as to Lion's responsibility, no new evidence has been presented which requires us to change our conclusion. Therefore, the protest filed with our Office more than 10 working days after receipt of the notice of award is untimely filed and not for consideration on the merits.

Accordingly, our prior decision is affirmed.

  
Deputy Comptroller General  
of the United States