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DECISION



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

FILE: B-190456

DATE: November 18, 1977

MATTER OF: A.A.A. Services, Inc.

DIGEST:

1. Protest is untimely and not for consideration on merits when basis for protest, rejection of bid, was known more than 10 days prior to protest filed on October 18, 1977.
2. While protest may have been untimely filed because of protester's lack of actual knowledge of procedures, protester is charged with constructive notice thereof because procedures are published in Federal Register. Also, protester's lack of knowledge is not sufficient to warrant invoking good cause exception.

A.A.A. Services, Inc. (A.A.A.), has protested the rejection of its bid under solicitation No. 598-2-78, for the furnishing of window cleaning services, issued by Veterans Administration Hospital, Supply Service, Little Rock, Arkansas.

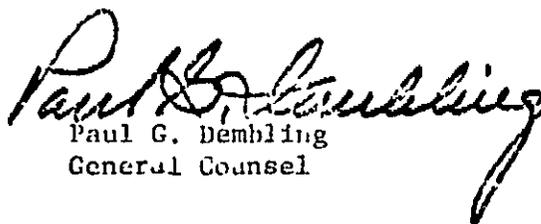
A.A.A.'s protest, filed with our Office on October 18, 1977, appears to be based on the contention that it was improperly denied an opportunity to correct an error in its bid. A.A.A. admits that it was advised of the rejection of its bid on September 30, 1977, when its General Manager called the Veterans Administration for a status report.

Our Bid Protest Procedures provide that protests "shall be filed not later than 10 [working] days after the basis for protest is known or should have been known, whichever is earlier," 4 C.F.R. § 20.2(b)(2) (1976). "The term 'filed' as used in [section 20.2] means receipt * * * in the General Accounting Office * * *. Protesters are cautioned that protests should be transmitted or delivered in the manner which will assure earliest receipt." 4 C.F.R. § 20.2(b)(3) (1976). It is clear from the record that A.A.A. was aware of the basis of its protest more than 10 days before its protest was filed with our Office, and its protest is therefore untimely.

B-190456

Further, A.A.A. states that it did not know what recourse was possible until October 12, 1977, when it was informed "of the various rules and regulations and the right of protest." Based on this and, apparently, the fact that A.A.A. was not advised, by the procuring activity, of the right of protest, it is A.A.A.'s position that it has demonstrated good cause for the delay in filing its protest. However, since our Bid Protest Procedures have been published in the Federal Register (40 Fed. Reg. 17979, April 24, 1975), protesters are charged with constructive notice of their provisions. Power Conversion, Inc., B-186719, September 20, 1976, 76-2 CPD 256. Also, at the time A.A.A. actually became aware of its right to protest, there were still 5 days, which included 3 working days, remaining prior to the running of the protest filing requirement, stated above. Notwithstanding the caution in our Procedures, quoted above, A.A.A. elected to use the mail service instead of a more expeditious method to file its protest. Under these circumstances, we will not invoke the good cause exception, which generally refers to some compelling reason beyond the protester's control that prevented it from filing a timely protest. See 52 Comp. Gen. 20, 23 (1972); Power Conversion, Inc., *supra*.

Accordingly, A.A.A.'s protest is untimely and not for consideration on the merits.


Paul G. Dembling
General Counsel