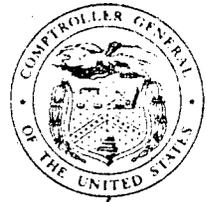


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**DECISION**



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

*[Protest of Navy Contract Award]*

FILE: B-198811

DATE: November 19, 1980

MATTER OF: National Systems Management Corporation--Reconsideration

**DIGEST:**

Prior decision dismissing protest for failure to diligently pursue Freedom of Information Act (FOIA) request which led to information showing basis for protest is affirmed where facts as stated by protester in request show that protester delayed total of 5 weeks in perfecting FOIA request after notification of award.

*C* National Systems Management Corporation (NSM) has requested reconsideration of our decision dismissing its protest against award of a contract by the Department of the Navy to VSE Corporation pursuant to request for proposals No. N00123-79-R-1518. National Systems Management Corporation, B-198811, October 10, 1980, 80-2 CPD \_\_\_\_\_. (In that decision, we found that NSM had not diligently pursued its protest by seeking within a reasonable period of time the information which eventually revealed to NSM its basis for protest.)

*C* NSM contends that we erred in finding that it had not diligently pursued under the Freedom of Information Act (FOIA) the information which revealed the basis for protest. (NSM argues that our decision was based on factual errors which made it appear that NSM was dilatory in perfecting its FOIA request when, in fact, NSM had acted expeditiously. NSM argues that, in view of the fact that it did not know of any basis for protest prior to receipt of the entire VSE contract on March 14, 1980, the manner in which it pursued its FOIA request was reasonable. Finally, NSM points to the fact that, once its protest had been filed with the Navy and our Office, the Navy was dilatory in reporting on the matter to our office and in supplying requested documentation to NSM.)

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In our prior decision, we relied upon a statement made by an NSM representative at a conference on this protest to the effect that the contracting officer had told that NSM representative on or about December 10, 1979, that award would be made to VSE on that date. NSM now denies that such a statement was made at the conference and states that it first received notification of award to VSE on December 26, 1979, when it received a letter from the contracting officer. NSM indicates that it mailed its initial FOIA request on January 4--six working days later. NSM says it received the Navy's January 14 letter (which stated that the FOIA request would not be honored until NSM promised to pay search and reproduction costs) on January 22. NSM promised to pay such costs by letter dated February 19--nineteen working days later.

Even if we accept NSM's most recent version of the facts in spite of its earlier indication to the contrary, we do not believe NSM acted in a reasonably expeditious manner. First, NSM allowed 6 working days to pass between receipt of written notice of award to VSE and mailing of its initial FOIA request. Second, NSM waited 19 working days between receipt of the Navy's January 14 letter and mailing of its promise to pay FOIA costs. Thus, even according to NSM's latest version of the chronology, NSM delayed a total of 25 working days, 5 full weeks after notification of award to VSE, before perfecting its FOIA request. Even though NSM did not at that time know its basis for protest, we have held in similar circumstances that a 5-week delay in making an FOIA request which leads to information showing the basis for protest is an unreasonable length of time to seek such information. See National Council of Senior Citizens, Inc., B-196723, February 1, 1980, 80-1 CPD 87. Moreover, the fact that the Navy may have been dilatory in reporting on this protest or in responding to NSM's requests for information is irrelevant and does not excuse NSM's failure to diligently pursue the information which revealed the basis for NSM's protest.

Accordingly, our prior decision in this matter is affirmed.

*Harry D. Kim*  
For the Comptroller General  
of the United States