

DECISION

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

Roberts
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FILE: B-210677

DATE: March 16, 1983

MATTER OF: Photica, Inc.

DIGEST:

Protest filed with GAO more than 10 working days after receipt of initial adverse action on agency protest is untimely and will not be considered. Interim appeals to agency do not toll running of 10 working day GAO filing period.

Photica, Inc., protests the General Services Administration's (GSA) refusal to renew Photica's Federal Supply Schedule (FSS) contract No. GS-002-41193 for photographic and chemical supplies. In this regard, Photica contends that it was precluded from submitting a timely renewal proposal for GSA's consideration due to GSA's alleged failure to provide it either notification of the renewal opportunity, or a copy of the renewal solicitation (No. FGE-B2-75202-N-8-19-82).

We dismiss the protest as untimely filed.

Photica's protest correspondence indicates that it first became aware of GSA's renewal solicitation on August 25, 1982, 6 days after the closing date for receipt of offers under that solicitation. On August 26, Photica protested to GSA the fact that it was effectively precluded from FSS contract renewal consideration because it did not receive a copy of the renewal solicitation. It also asserts that there was no adequate notification of the renewal opportunity in the Commerce Business Daily, or any personal notification which would have allowed it to submit a timely renewal offer to GSA.

By letter of September 8, GSA replied to Photica's protest by stating that GSA's mailing list indicated that Photica was furnished the renewal solicitation; that, in GSA's view, the Commerce Business Daily notice of the renewal solicitation on July 29 provided adequate opportunity for Photica to request and receive the solicitation

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and submit a timely offer by the August 19 closing date; and that GSA would not consider any renewal offer submitted after the closing date.

By letter of November 8, 1982, Photica appealed to the Administrator of GSA, who referred the matter to the GSA Board of Contract Appeals. The Board, by letter to Photica dated January 12, 1983, dismissed the matter as not being within the Board's jurisdiction.

The protest was filed at GAO on February 1, 1983. Our Bid Protest Procedures at 4 C.F.R. § 21.2(a) (1982) provide that once a protest has been timely filed with the contracting agency, any subsequent protest to the Comptroller General must be filed within 10 working days of actual or constructive knowledge of any initial adverse agency action regarding the protest. In this regard, interim appeals to the agency do not toll the running of the 10 days. See Kenney Refrigeration, B-191026, January 31, 1978, 78-1 CPD 87.

We view GSA's September 8 response to Photica's agency protest as the initial adverse agency action. Consequently, Photica's delay in filing its protest with our Office until February 1, 1983, renders the protest untimely and not for consideration on the merits.

The protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel