

DECISION

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

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FILE: B-208982.2**DATE:** July 25, 1983**MATTER OF:** Alchemy, Inc.**DIGEST:**

1. GAO will dismiss request for reopening of protest file received more than 10 working days after protester should have had notice of such action, since request is tantamount to request for reconsideration of decision not to consider protest.
2. As a general rule, regardless of how original was lost, duplicate protest must independently satisfy timeliness requirements of GAO Bid Protest Procedures. Same rule applies to copies of information in support of a protest.
3. When agency finds protester nonresponsive, and protester does not challenge this finding, GAO will dismiss protest, since even if it were sustained, protester would not be in line for award.

Alchemy, Inc. protests the cancellation of solicitation No. N00104-82-B-0508, issued by the Navy Ships Parts Control Center, Mechanicsburg, Pennsylvania, for a quantity of fire hose nozzles. We dismiss the protest because Alchemy did not meet the timeliness requirements of our Bid Protest Procedures, 4 C.F.R. § 21.2 (1983).

The chronology of the protest is as follows. At opening on July 9, 1982, the Navy received three bids; Alchemy was the apparent low bidder. The contracting officer's subsequent review of the specifications and technical data package disclosed several deficiencies, and consequently, the Navy issued Mod 003 on August 16, 1982, canceling the solicitation.

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Alchemy protested the cancellation in a telegram sent to the Navy on August 21, 1982. The firm apparently sent an information copy of this protest to our Office, but we have no record of receiving it. The Navy responded to the protest by letter dated September 3, 1982, setting forth its reasons for cancellation and stating that the requirement would be readvertised upon correction of the deficiencies.

Alchemy's initial protest to our Office was a September 7, 1982, telegram stating, "In reference to our telegram dated August 21, 1982 we're protesting your Mod 003 of solicitation N00104-82-B-0508. Thank you."

Unaware of the contents of the August 21 telegram, we wrote Alchemy on September 13, 1982, requesting additional details. In accord with section 21.2(d) of our procedures, we advised Alchemy that if it failed to submit this information within 5 working days from receipt of the request, we would close the protest file.

Alchemy responded by letter dated September 16, 1982, stating "we feel the grounds from our initial protest were sufficient." No further explanation or information was provided. Accordingly, we informed Alchemy by letter dated October 5, 1982, that we would take no further action, because we still did not know the basis for its protest.

By letter dated October 29, 1982, which we received on November 2, Alchemy requested that we reopen its protest file. Alchemy enclosed a confirmation copy of the August 21 protest to the Navy that we had not previously received.

The issue presented is whether Alchemy's request for reopening--which is tantamount to a request for reconsideration of our decision to close the protest file--meets our timeliness requirements. We construe these rules strictly in order to enable the Government to proceed with the timely acquisition of required supplies and services. See Edron, Inc., B-207353.2, September 8, 1982, 82-2 CPD 207; Gary's Disposal, Inc., B-207864, July 23, 1982, 82-2 CPD 72.

We find Alchemy either untimely or not for consideration on other grounds. First, the request for reopening should have been filed within 10 working days after Alchemy received our letter of October 5, 1982. Allowing 5 working days for receipt of this letter, Alchemy's latest possible date for requesting reopening of the protest file would have been October 27, 1982. See Gary's Disposal, Inc., supra. However, as noted above, we did not receive the request, with a copy of the August 21 protest to the Navy, until November 2, 1982.

Second, we will not consider the copy of the protest to the Navy, submitted with Alchemy's request for reopening of the file, since we received it more than 10 working days after the Navy's initial adverse action on Alchemy's protest and more than 5 working days after our request for details on the protest to our Office. As a general rule, regardless of how the original was lost, a duplicate protest must independently satisfy our timeliness requirements. See Mark Dunning Industries, Inc., B-208150.2, December 27, 1982, 82-2 CPD 577. We see no reason why this same rule should not apply to copies of information in support of a protest.

Finally, the Navy's report to our Office, which we received before we had resolved the timeliness issue, indicates that Alchemy did not submit required drawings with its bid and has been declared nonresponsive. Alchemy does not contest this finding. In view of this, we would have dismissed the protest regardless of timeliness, since even if we found that the cancellation was improper, Alchemy would not have been in line for award. See E. J. Nachtwey, B-209562, January 31, 1983, 83-1 CPD 104; Holm Well Drilling, Inc., B-207774, October 22, 1982, 82-2 CPD 362.

The protest is dismissed.

Harry R. Van Cleve
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Acting General Counsel