

DECISION



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

Shimamura
R-II

FILE: B-218802

DATE: May 10, 1985

MATTER OF: Bruker-Franzen Analytik GmbH

DIGEST:

Protest letters filed more than 10 days after basis for protest is known or after denial of agency protest are untimely since both letters were received more than 10 days after the dates of the letters.

Bruker-Franzen Analytik GmbH (Bruker-Franzen) protests the rejection of its late proposal submitted in response to request for proposals (RFP) No. DAAK11-85-R-0023, issued by the U.S. Army, Aberdeen Proving Grounds, Maryland.

Bruker-Franzen, located in Bremen, West Germany, transmitted its proposal by commercial carrier to the designated bid opening site in Aberdeen, Maryland. The proposal arrived on April 8, 1985, 4 days after the deadline for proposals and was rejected as late.

Bruker-Franzen, by letter dated April 11, 1985 (received May 2, 1985), argues that the Federal Acquisition Regulation (FAR), 48 C.F.R. § 52.215.10 (1984), which allows for the consideration of late offers sent by registered or certified mail, discriminates against foreign bidders with no access to domestic mail. By letter dated April 18, 1985 (received May 6, 1985), the protester, after noting that a government employee improperly accepted the bid package after misdelivery by the commercial carrier, claims government mishandling. The firm mentions the rejection of an "appeal" on the matter by the contracting officer.

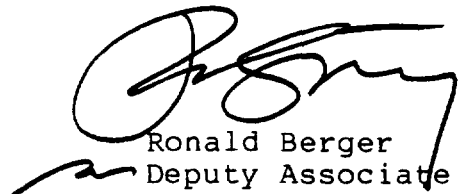
Under our Bid Protest Regulations, protests are required to be filed not later than 10 days after the basis of protest is known (4 C.F.R. § 21.2(a)(2) (1985)), or after a denial of a protest by the agency. (4 C.F.R. § 21.2(a)(3)). Whether the protester's letters followed an

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agency protest denial or were initially filed here, the protests are untimely because both protest letters were filed with our Office more than 10 days after the dates of those letters.

Accordingly the protest is dismissed, and we will not consider the merits. 4 C.F.R. § 21.3(f).



Ronald Berger
Deputy Associate
General Counsel