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The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Pacific Fabrication--Request for Reconsideration
File: B-224065.2
Date: September 9, 1986

DIGEST

1. Oral notification of the basis of protest is sufficient to start the running of the 10-day period for filing a protest; protester's failure to receive some formal notification of protest basis does not warrant delay in filing protest with General Accounting Office.
2. Protester's mailgram to contracting agency stating that it "protests the award" of a contract, but not specifying basis of protest, does not toll 10-day timeliness period for filing protest with GAO, and specific basis of protest raised for first time in GAO protest filed more than 10 days after they were known thus are untimely raised.

DECISION

Pacific Fabrication (Pacific) requests reconsideration of our August 19, 1986, notice dismissing as untimely its protest against the Defense Logistics Agency's (DLA) award of a contract to Hanany Metal Craft (Hanany) under invitation for bids (IFB) No. DLA100-86-B-0140. We affirm the dismissal.

Under our Bid Protest Regulations, a protest will be dismissed as untimely unless filed (received) in our Office within 10 working days after the basis of protest was or should have been known. 4 C.F.R. § 21.2(a)(2) (1986). We dismissed Pacific's August 19 protest, which challenged Hanany's eligibility for award, based on Pacific's statement that it had learned of the award to Hanany during a July 29 telephone conversation with DLA's purchasing agent; this was the only information needed to establish Pacific's basis of protest because the protest submission indicated Pacific already was aware of its reasons for believing Hanany should not receive the award. Since Pacific thus should have known its basis of protest on July 29 but did not file the protest until August 19, more than 10 working days later, we found the protest untimely.

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Pacific requests reconsideration on the grounds that: (1) it never was officially notified of the award; and (2) following the July 29 telephone notice from DLA, it sent a July 30 mailgram to the agency stating that it "protests the award" of the contract. Both grounds are without merit.

First, oral notification of the basis of protest is sufficient to start the running of the 10-day period for filing a protest; a protester may not delay filing its protest until receipt of some written notification that merely reiterates the information transmitted orally. Auburn Timber, Inc.--Request for Reconsideration, B-221523.2, Feb. 20, 1986, 86-1 C.P.D. ¶ 182.

Second, our Regulations do provide that the 10-day timeliness period for filing a protest in our Office can be tolled by a protest filed with the contracting agency during that period. 4 C.F.R. § 21.2(a)(3). While Pacific's July 30 mailgram to the contracting agency objected to the award within the 10-day period, the mailgram did not raise any specific grounds of protest, stating only that "details of protest are forthcoming." Pacific then specified its protest grounds for the first time in its August 19 protest to our Office. Under these circumstances, Pacific's July 30 mailgram "protest" to DLA was not adequate to toll the running of the 10-day timeliness period as it applies to the matters raised in Pacific's August 19 submission to our Office.

The dismissal is affirmed.

for Seymour E. Gross
Harry R. Van Cleve
General Counsel