



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Federal Contracting Corporation

File: B-224064

Date: October 10, 1986

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### DIGEST

Protest is dismissed where protester failed to furnish copy of protest filed with the General Accounting Office to contracting officer or other designated individual or location, as required by applicable Bid Protest Regulations. While protester claims to have mailed copy to designated agency office, protester is unable to present evidence that it was received and, thus, that the notice requirement was satisfied.

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### DECISION

Federal Contracting Corporation (FCC) protests the cancellation of request for proposals (RFP) No. DTCG29-86-R-03515 issued by the United States Coast Guard, Eighth District, Orleans, Louisiana, for the maintenance of aids to navigation buoys, at the United States Coast Guard Base, Mobile, Alabama. FCC contends that the agency's decision to cancel the solicitation circumvented the procurement process and resulted in a "breach" of competitive procurement procedures. The protest is dismissed because of the protester's failure to furnish a copy of its protest to the contracting officer within 1 day after the protest was filed with our Office, as required under our Bid Protest Regulations, 4 C.F.R. § 21.1(d) (1986).

Our Office was first informed of the contracting officer's nonreceipt of a copy of the protest when, after 25 working days following our receipt of the protest and notification thereof to the Department of Transportation, we did not receive the agency report on the due date.

Although the letter of protest indicated that copies were provided to the Commander, Eighth Coast Guard District, New Orleans, Louisiana--the same address as that of the contracting officer--and to the Commandant, United States Coast Guard, Washington, D.C., upon our inquiry concerning the

administrative report, both of these offices stated that neither a copy nor a notice of the protest had ever been received, and that, in fact, the Coast Guard had no knowledge of a protest having been filed in connection with the subject procurement.

The protester states that copies of the protest were mailed as indicated in its protest letter, but the protester is unable to provide any evidence that the copies were received and, in particular, that a copy was received by the contracting officer in New Orleans. Although FCC filed its protest in our Office by certified mail, the protester states:

"Since we were filing this protest with the GAO and not the Contracting Agency we saw no need in sending the agency copy by certified mail. There was not such a requirement stated in the GAO guidelines and, consequently, it was not done in that manner."

The protester correctly states that our Bid Protest Regulations do not require that it provide the contracting officer (or agency) with a copy of its protest by certified mail. Rather, our Bid Protest Regulations state:

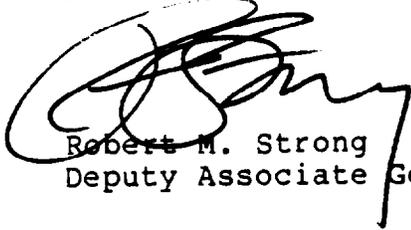
"The protester shall furnish a copy of the protest . . . to the individual or location designated by the contracting agency in the solicitation for receipt of protests. . . . The designated individual or location, or if applicable, the contracting officer must receive a copy of the protest no later than 1 [working] day after the protest is filed with the General Accounting Office." 4 C.F.R. § 21.1(d). (Emphasis added.)

Thus, our Regulations require receipt by the appropriate office or individual, regardless of the manner in which receipt is effected.

Our Regulations impose this strict time requirement because delay in the contracting officer's receipt of a copy of the protest (1) impedes the agency's ability to meet the 25-day deadline imposed by the Competition in Contracting of 1984, 31 U.S.C. § 3553 (Supp. III 1985) for filing its administrative report with our Office, and (2) frustrates efforts to consider expeditiously all objections to agency

procurement actions. Westinghouse Electric Corp., Westinghouse Furniture Systems Division--Reconsideration, B-222428.2, June 3, 1986, 86-1 C.P.D. ¶ 516.

That the protester mailed a copy of its protest to the contracting officer (or to the individual or location designated in the solicitation) does not ensure the protester's compliance with the statutory requirement for timely receipt by the agency. See Carlyle Van Lines, Inc.--Reconsideration, B-221331.2, Jan. 24, 1986, 86-1 C.P.D. ¶ 8 Whether FCC mailed the copy of the protest is of no relevance, since its action did not satisfy the notice requirement of 4 C.F.R. § 21.1(d). Westinghouse Electric Corp., B-222428.2, supra, 86-1 C.P.D. ¶ 516 at 2. The protest is dismissed.



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