



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Water Resources Education

File: B-224683

Date: October 15, 1986

DIGEST

1. Protest filed in General Accounting Office more than 10 days after protester knew basis for protest is dismissed as untimely. Oral complaint to contracting agency did not constitute timely protest since Federal Acquisition Regulation no longer provides for oral protests.
2. Protester's lack of knowledge concerning filing deadlines is not a basis for waiving timeliness requirements, since prospective contractors are on constructive notice of Bid Protest Regulations.

DECISION

Water Resources Education ("Water Ed") protests the cancellation of request for quotations (RFQ) No. 86-66, issued by E. I. Du Pont De Nemours for the Department of Energy (DOE) for a waste water operator training course. Water Ed protests that it should have received the award as the low bidder under the solicitation.

We dismiss the protest as untimely.

The DOE has advised us that Water Ed was given both oral and written notification of the cancellation of RFQ 86-66 and resolicitation of the requirement under a new solicitation which, among other things, required evaluation of both cost and technical proposals. The protest was first filed in our Office on September 16. Under our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1986), protests such as this one must be filed within 10 working days after the protester knew or should have known the basis of protest. Here, the protester was advised by telephone of the cancellation and was also given written notification thereof when he picked up a copy of the resolicitation on August 21. The protest, filed some 17 working days later, is therefore untimely.

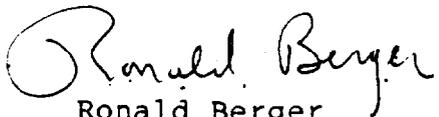
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Water Ed notes that it had verbally protested to Du Pont when award was first proposed to another offeror. However, this does not change the result here, since an oral complaint to the contracting agency would not constitute a protest such that a subsequent protest to our Office would be timely. Oral protest are no longer provided for under the Federal Acquisition Regulation, 48 C.F.R. § 33.101 (1985). K-II Construction, Inc., B-221661, Mar. 18, 1986, 65 Comp. Gen. ____, 86-1 CPD ¶ 270.

Water Ed also states that it did not know that it could file a protest with our Office until its representative was so informed by a DOE official on September 5. However, a protester's lack of actual knowledge of our regulations is not a defense to dismissal of its protest as untimely. Prospective contractors are on constructive notice of our Bid Protest Regulations, since they are published in the Federal Register and Code of Federal Regulations. See Kenneth J. Pedersen, B-222891, May 6, 1986, 86-1 CPD ¶ 440.

Finally, to the extent Water Ed's protest is based on alleged improprieties in the award decision that was initially made under this solicitation, rather than on the cancellation of the solicitation, it is rendered academic by the cancellation. International Trade Overseas, Inc., B-221824, Apr. 1, 1986, 86-1 CPD ¶ 310. We therefore will not consider it further.

The protest is dismissed.



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General Counsel