



The Comptroller General  
of the United States

Washington, D.C. 20548

Kennedy - P2-I

## Decision

Matter of: Multi Electric Mfg. Inc.--Reconsideration  
File: B-226861.2  
Date: May 14, 1987

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### DIGEST

Dismissal of original protest is affirmed where protester failed to file protest within 10 working days of the date the basis for protest was known.

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### DECISION

Multi Electric Mfg. Inc., requests reconsideration of our dismissal of its protest against the cancellation of solicitation No. DLA400-86-R-5139, issued by the Defense Logistics Agency (DLA).

Multi, a small business, had protested that DLA improperly canceled the solicitation after the Small Business Administration (SBA) issued the firm a Certificate of Competency (COC). Multi argued that since it had been issued a COC, DLA was "required" to award the firm the contract and that the cancellation represented a bad faith effort by DLA to circumvent the SBA's authority to determine conclusively all matters of a small business concern's responsibility. We dismissed Multi's protest as untimely because it was not filed within 10 working days after the firm learned that the solicitation had been canceled and it would not be awarded the contract. See 4 C.F.R. § 21.2(a)(2) (1986). Multi states that it learned on November 18, 1986, that the solicitation had been canceled; however, Multi did not file its protest until April 23, 1987, several months later.

On reconsideration, Multi argues that its protest should be considered timely. The firm states that it was "not aware of adverse actions" by the procuring activity until it received in February, 1987, a copy of the agency preaward survey on Multi, which Multi alleges contained numerous inaccuracies and misstatements. Multi argues that this "suggests a conspiracy [by DLA] to withhold the award of the contract from Multi" and

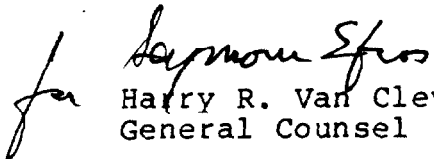
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supports the firm's contention that the solicitation was canceled to circumvent SBA's authority. The protester also states that the agency's improper actions against Multi were "confirmed" by the fact that DLA recently awarded another contract for the solicited items.

Our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1986), require that protests be filed within 10 working days after the basis of protest is known or should have been known, whichever is earlier. Here, Multi's initial submission to this Office shows that on November 18, 1986, Multi learned that the solicitation had been canceled due to a lack of adequate funds. Thus, if Multi believed that the procuring agency was "required" to award to the firm because it had been issued a COC and the cancellation was therefore improper, it should have protested this matter within 10 working days after learning of the cancellation; its failure to do so renders the protest untimely. See Coastal Industries Inc.--Reconsideration, B-223158.2, June 30, 1986, 86-2 C.P.D. ¶ 20.

In any event, from the time Multi states that it learned of "adverse actions" by DLA upon receipt in February, 1987, of the allegedly inaccurate preaward survey, the protest is untimely as it was filed (received) in our Office more than 10 days thereafter. See Diversified Design Consultants, Ltd.--Reconsideration, B-224980.2, Nov. 13, 1986, 86-2 C.P.D. ¶ 559.

Our prior dismissal is affirmed.

  
Harry R. Van Cleve  
General Counsel