



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Discount Machinery & Equipment, Inc.--
Request for Reconsideration
File: B-227885.2
Date: August 18, 1987

DIGEST

Dismissal of protest for failure to file a copy with the contracting officer within 1 working day after filing with General Accounting Office (GAO) is affirmed where agency did not receive copy until 16 working days after the protest was filed at GAO and otherwise did not have timely knowledge of protest basis; the fact that the protester may have forwarded a copy within the necessary time period is not relevant, since the requirement is for receipt by the agency.

DECISION

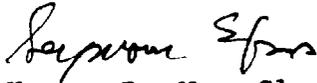
Discount Machinery & Equipment Company, Inc. requests that we reconsider our July 9, 1987 dismissal of its protest of the Navy's award of a contract to a competitor under request for proposals (RFP) No. N00600-87-R-2205. We dismissed the protest, filed on June 24, because on July 8, the Navy advised our Office that Discount Machinery had not provided it with a copy of the protest and therefore failed to comply with section 21.1(d) of our Bid Protest Regulations, 4 C.F.R. part 21 (1987). That section states that the contracting officer must receive a copy of the protest within 1 working day after the filing in our Office. Discount Machinery asserts that it in fact forwarded a copy of its protest to the contracting activity.

The basis for the 1-day notice requirement in our regulations is found in the Competition in Contracting Act of 1984, 31 U.S.C. § 3551 et seq. (Supp. III 1985), which requires the contracting agency to file a written report with our Office within 25 working days after we notify the agency of the protest. Any delay in furnishing a copy of the protest to the contracting agency not only hampers the agency's ability to meet the 25-day statutory deadline, but also frustrates our efforts to consider all objections to agency procurement actions in as timely a fashion as possible. Refac Electronics Corp.--Reconsideration, B-226034.2, Feb. 4, 1987, 87-1 CPD ¶ 117.

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Upon receiving Discount Machinery's reconsideration request, we asked the Navy to recheck its records to insure the accuracy of the agency's July 7, advice to our Office. The agency informally advises us that, according to their records, a copy of the protest was received on July 16-- 16 working days after the protest was filed in our Office. In the absence of any evidence to the contrary or that the Navy otherwise should have known the basis for Discount Machinery's complaint, the protest was properly dismissed. Id., and cases cited therein.

Our prior decision is affirmed.

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Harry R. Van Cleve
General Counsel