

C Melody - PL



The Comptroller General  
of the United States

Washington, D.C. 20548

# Decision

Matter of:       General Microfilm  
File:             B-228427.2  
Date:             October 27, 1987

## DIGEST

Dismissal of protest as untimely is affirmed on reconsideration where initial protest to contracting agency on which the protester bases the timeliness of its subsequent protest to General Accounting Office (GAO) raised a different issue than that raised in the protest to GAO.

## DECISION

General Microfilm (GM) requests reconsideration of our decision to dismiss its protest concerning award of a contract by the National Transportation Safety Board (NTSB) under request for proposals No. NTSB-RFP-8602-A for clearinghouse services for accident/incident file information. We affirm our prior dismissal.

In its protest filed with our Office on October 5, 1987, GM alleged that NTSB improperly decided to award a sole source contract for the services to another firm beginning on October 1, instead of exercising an option under GM's existing contract for the services. The principal basis of GM's protest was that NTSB had sufficient time to conduct a competitive procurement instead of making a sole-source award. Under our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1987), any protest on this ground had to be filed with our Office within 10 working days after GM knew of NTSB's decision. According to GM, it was first advised by NTSB of its decision to award a new contract instead of exercising GM's option on August 17. Since GM's protest was not filed until October 5, more than 10 working days later, we dismissed it as untimely.

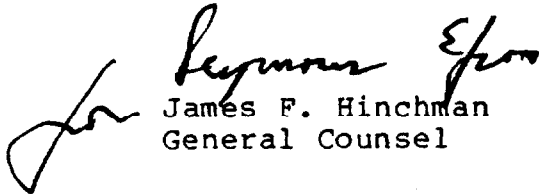
In its reconsideration request, GM argues that its protest to our Office was timely because it originally filed a timely protest with NTSB by letter dated August 26, and, after being told on September 28 that NTSB would proceed with award of a new contract, then filed its protest with

040382

our Office less than 10 working days later. Our regulations provide that a protest to our Office is timely if it is filed within 10 working days after adverse action on an initial protest timely filed with the contracting agency. 4 C.F.R. § 21.2(a)(3). Here, GM's protest to NTSB in general terms protested only NTSB's decision not to exercise GM's option; the protest did not raise the principal issue GM raised in its subsequent protest to our Office, whether NTSB's purported decision not to conduct a new competitive procurement was justified. Since the issue raised before our Office was not raised in GM's initial protest to NTSB, that protest has no bearing on the timeliness of GM's later protest to our Office.

In its protest, GM also argued that although it had been providing the services to NTSB since January 1986, NTSB had never issued a formal contract to GM. GM also challenged NTSB's purported position that the microfiche GM was required to purchase in order to perform the services involved became the property of NTSB. These issues relate to contract administration, a matter which we do not review under our bid protest function. 4 C.F.R. § 21.3(f)(1).

Our prior dismissal is affirmed.

  
James F. Hinchman  
General Counsel