



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Amertech Industries, Inc.

File: B-229498

Date: November 9, 1987

DIGEST

Filing of a protest with the General Services Administration Board of Contract Appeals that is not within the Board's jurisdiction does not toll time for filing with the General Accounting Office.

DECISION

Amertech Industries, Inc. protests the rejection of its bid in response to solicitation No. 2PPC-CM-87-067 for diesel fire pump installation issued by the General Services Administration (GSA).

We dismiss the protest.

On September 17, 1987, Amertech received a letter from the GSA contracting officer rejecting its bid because of an insufficient bid guarantee. By letter dated September 25, Amertech sent a protest to the General Services Administration Board of Contract Appeals (GSBCA). The GSBCA subsequently dismissed Amertech's protest for lack of jurisdiction because it did not concern a solicitation for automatic data processing equipment. Our Office received Amertech's protest on October 27, some 40 calendar days after the date the basis for protest was known or should have been known.

The Competition in Contracting Act of 1984, which gives our Office and the GSBCA authority to resolve bid protests, authorizes the GSBCA to consider only automated data processing equipment protests. 40 U.S.C.A. § 759(f) (West Supp. 1987) (amending 40 U.S.C. § 759 (Supp. III 1985)). All other protests may be decided by the General Accounting Office, the contracting agency, or the federal courts. 31 U.S.C. § 3556 (Supp. III 1985). Our Bid Protest Regulations provide that bid protests such as this one, to be timely, must be filed not later than 10 working days after the basis of protest is known or should have been known (whichever is earlier) or within 10 working days of actual or constructive

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knowledge of initial adverse agency action in the case of protests filed initially with the contracting agency. 4 C.F.R. § 21.2 (1987). The GSBICA is an independent executive branch tribunal established pursuant to 41 U.S.C. § 607 (1982) and it is not, therefore, the "contracting agency" as that term is used in our regulations. 4 C.F.R. § 21.0(c). Consequently, the filing of a protest with the GSBICA on a matter over which the Board lacks jurisdiction is not an initial filing with the contracting agency.

Bid protests are serious matters which require effective and equitable procedural standards, both so that parties have a fair opportunity to present their cases and so that protests can be resolved in an expeditious manner. Our regulations are intended to provide for the expeditious consideration of protests without unduly disrupting the government's procurement process. Astrophysics Research Corporation, B-224383, July 7, 1986, 86-2 C.P.D. ¶ 42. The timeliness standards included in our Bid Protest Regulations are important to ensure fair and prompt resolution of bid protests. Thus, timeliness standards must be and are strictly construed by our Office. Moreover, since our regulations are published in the Federal Register, protesters are charged with constructive notice of their contents. Coastal Industries, Inc.--Reconsideration, B-223158.2, June 30, 1986, 86-2 C.P.D. ¶ 20.

Amertech was on notice of its basis for protest on September 17, upon receipt of GSA's notice of the rejection of its bid. Amertech was also at least on constructive notice of the proper time and place for filing its protest of GSA's rejection of its bid. Coastal Industries, Inc.--Reconsideration, B-223158.2, supra. Consequently, since Amertech's filing of its protest with the GSBICA does not toll the time for filing with us, Amertech's protest filed on October 27 was untimely and will not be considered on the merits. See System Automation Corporation, B-224166, Oct. 29, 1986, 86-2 C.P.D. ¶ 493.

The protest is dismissed.

Ronald Berger

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