

Baskin



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Conveyor Handling Company
File: B-231371
Date: May 23, 1988

DIGEST

Protest is untimely when it is filed with the General Accounting Office more than 10 days after the initial adverse action on the protest to the agency.

DECISION

Conveyor Handling Company (CHC) protests the award of a contract for reconfiguration of receiving and shipping areas under request for proposals (RFP) No. MDA904-88-R-2198 issued by Maryland Procurement Office (MPO) of the National Security Agency.

We dismiss the protest.

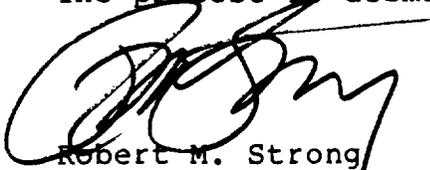
CHC filed a timely protest with the agency on January 15, 1988, complaining that the specifications were restrictive. MPO apparently did not respond to that protest. The closing date for receipt of proposals was January 21, and CHC submitted a proposal. CHC received MPO's notice of award to another offeror on March 28, and filed a second protest, again complaining of the restrictive specifications, on April 7, which the agency denied on April 25. CHC filed its protest with our Office on May 9.

Our Bid Protest Regulations permit a protest to be filed initially with the contracting agency, but require that any subsequent protest to this Office be filed within 10 working days of when the protester knows or should know of the initial adverse agency action on the protest. 4 C.F.R. § 21.2(a)(3) (1988). The regulations, 4 C.F.R. § 21.0(f), define adverse agency action as any action on the part of the contracting agency which is prejudicial to the position taken in a protest filed with the agency, including a procurement action such as the receipt of proposals.

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Although CHC's protest was filed within 10 days of receiving MPO's denial of CHC's second protest with the agency, our Regulations are clear that it is knowledge of the initial adverse agency action on the agency-level protest--the receipt of proposals on the scheduled due date--that triggers the 10-day period for filing a subsequent protest to our Office. 4 C.F.R. § 21.2(a)(3). CHC's protest here was not filed within 10 days of the January 21 closing date for receipt of proposals and is, therefore, untimely.

The protest is dismissed.



Robert M. Strong
Deputy Associate
General Counsel