



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Bio-Temp Scientific, Inc.--Request for
Reconsideration
File: B-231358.2
Date: June 10, 1988

DIGEST

Prior dismissal of protest as untimely is affirmed where protest was filed in our Office more than 10 working days after the protester became aware of the basis of its protest because the protest was misaddressed based on information provided by the procuring agency.

DECISION

Bio-Temp Scientific, Inc., requests reconsideration of our May 6, 1988, dismissal of its protest against the award of a contract under solicitation No. APHIS-7-0036, issued by the United States Department of Agriculture. We affirm our dismissal.

Bio-Temp's protest was dismissed as untimely because it was filed (received) in our Office more than 10 working days after the date that Bio-Temp became aware of its basis of protest. See Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1988). Bio-Temp's protest letter was dated March 15, 1988, but, on the envelope containing the protest and on the letter heading, Bio-Temp used the wrong zip code for the General Accounting Office. As a result, our Office did not receive the letter until May 6. In the letter, Bio-Temp stated that its protest was based on information which it received on March 15, from Agriculture; nevertheless, we found that the protest was untimely since it was filed in our Office more than 10 working days later.

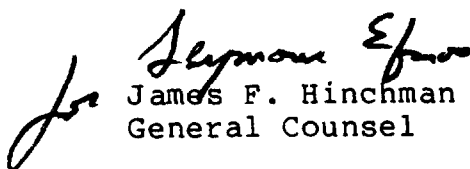
In its request for reconsideration, Bio-Temp only requests that we consider its March 15 letter as a protest and does not challenge our determination that the protest was untimely. However, our Regulations specifically identify the necessary address and zip code for properly filing a protest at our Office. See 4 C.F.R. § 21.1(b). Accordingly, we do not consider misaddressing a protest as a basis for excusing the untimeliness of a protest. Discount Machinery & Equipment, Inc.--Request for Reconsideration, B-221177.2, Dec. 13, 1985, 85-2 CPD ¶ 665.

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Although, in a conversation with our Office, Bio-Temp advised that the zip code it used was provided by Agriculture, the fact that Bio-Temp may have been misled by the agency because it was unaware of our Regulations does not alter the untimeliness of its protest. A protester's lack of actual knowledge of our Regulations does not permit consideration of its untimely protest. Our Regulations were published in the Federal Register and appear in the Code of Federal Regulations, and protesters are charged with constructive notice of their contents. Discount Machinery & Equipment, Inc.--Request for Reconsideration, B-221177.2, supra.

Moreover, misinformation from the agency about our Regulations may not waive our timeliness requirements. See The Great American Picture Company, Inc.--Request for Reconsideration, B-227968.2, Aug. 13, 1987, 87-2 CPD ¶ 155.

Accordingly, we affirm our prior dismissal.


James F. Hinchman
General Counsel