



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Pitney Bowes, Inc.
File: B-233568
Date: December 1, 1988

DIGEST

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

DECISION

Pitney Bowes, Inc., protests any award under invitation for bids (IFB) No. 200-6-88, issued by the Veterans Administration for automated inserting/mailing systems. Pitney contends the specifications are ambiguous concerning computer reading requirements, envelope weights, wiring and training.

We dismiss the protest.

By letter dated September 22, 1988, Pitney filed a protest with the contracting activity, raising the same issues regarding the IFB's specifications. Despite Pitney's protest, bid opening occurred as scheduled on September 28. The contracting activity subsequently denied Pitney's protest in an October 24 letter. Pitney then protested to our Office in a letter received November 14.

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 opening of bids. Transmission Structures Limited, B-230855, Apr. 8, 1988, 88-1 CPD ¶ 353. It is our general view that, once the contracting

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activity proceeds with bid opening, the protester is on notice that the contracting activity will not undertake the requested corrective action; timeliness is thus measured from this point rather than from the receipt of a subsequent formal denial of the agency-level protest. See Consolidated Industrial Skills Corp., B-231669.2, July 15, 1988, 88-2 CPD ¶ 58. Therefore, Pitney's protest filed on November 14, more than 10 working days after the September 28 bid opening, is untimely.

The protest is dismissed.

Christine S. Melady

for Robert M. Strong
Associate General Counsel