



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Sanchez Painting and Construction Company --
Reconsideration

File: B-232287.2

Date: January 23, 1989

DIGEST

Request for reconsideration of bid protest decision is untimely when not filed within 10 working days after the basis for the request is known.

DECISION

Sanchez Painting and Construction Company requests that we reconsider our decision in Sanchez Painting and Construction Co., B-232287, Dec. 2, 1988, 68 Comp. Gen. ____, 88-2 CPD ¶ ____, in which we denied Sanchez's protest against the rejection of its telefaxed bid modification as late and the award of a contract by the Department of the Navy to another bidder, under invitation for bids (IFB) No. N62474-88-B-4300. Sanchez asks us to reconsider our finding that the Navy did not receive Sanchez's telefaxed bid modification in its mailroom until 1 minute before bids were due which we concluded was less than a reasonable time for the bid modification to be delivered to the designated location for receipt of bids.

We dismiss Sanchez's request because it was not filed in a timely manner.

In our decision, we denied Sanchez's protest based on our review of the telefaxed bid modification as received by the Navy. In preparing our decision, we consulted with Western Union to interpret the meaning of the following language which appeared on the face of the Western Union telefax sent by Sanchez to the Navy: "JUN 15 '88 16:29 FROM WU MTWN CTB." Based on advice from Western Union, which we referenced in our decision, we concluded that the quoted passage indicated the time of transmission was 4:29 p.m., Eastern Standard Time, or 2:29 p.m., Pacific Daylight Time, (PDT) which was 1 minute before the time set for bid opening. We found that

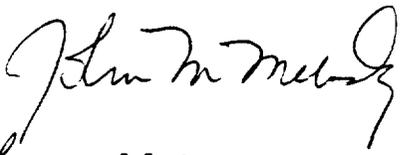
044409/137777 . .

Sanchez failed to ensure timely delivery of its bid modification by not allowing a reasonable length of time to deliver the modification to the office designated for receipt of bids. We therefore denied the protest.

Sanchez seeks reconsideration of our decision, asserting that it was based on erroneous information obtained from Western Union. Sanchez seeks to bring forth evidence that the Western Union telefax arrived at the Point Mugu mail room at 1:29 PDT, not 2:29, and that a reasonable time of approximately 1 hour remained for the modification to travel from the mailroom to the bid opening room.

Our Bid Protest Regulations provide that a request for reconsideration must be filed not later than 10 working days after the basis for reconsideration is known or should have been known, whichever is earlier. 4 C.F.R. § 21.12(b) (1988); see, e.g., Cara, Inc., B-232038.2, Sept. 9, 1988, 88-2 CPD ¶ 226. Sanchez did not file its request for reconsideration until January 4, 1989. However, Sanchez clearly knew or should have known its basis on December 13, 1988. On that day, counsel for Sanchez called our Office and requested information as to why we had consulted with Western Union to interpret the telefaxed bid modification. That leads us to conclude that counsel for Sanchez was aware of our decision at least by that date. Sanchez's request for reconsideration therefore should have been filed on or before December 28, 1988. Since Sanchez did not file the request until January 4, 1989, the request is untimely and will not be considered.

The request is dismissed.


for Ronald Berger
Associate General Counsel