



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** The Richard-Rogers Group, Inc.--Request for  
Reconsideration  
**File:** B-234141.6  
**Date:** February 22, 1989

### DIGEST

Prior dismissal of protest as untimely filed is affirmed where protester argues that its late filing was excusable due to its lack of knowledge of Bid Protest Regulations and the alleged inefficiency of the Postal Service, because: (1) the protester was on constructive notice of Regulations, as they are published in the Federal Register, and (2) a protester acts at its own risk when it relies upon the mails, including certified mail, to deliver its protest.

### DECISION

The Richard-Rogers Group, Inc., requests reconsideration of our January 19, 1989 dismissal of its protest under request for proposals No. OPM-RFP-88-2795, issued by the Office of Personnel Management (OPM). We affirm the dismissal.

On January 17, 1989, Richard-Rogers filed a protest with our Office objecting to specific solicitation provisions, and challenging OPM's determination that its proposal was technically unacceptable. The protest submission stated, however, that the firm had been notified by the agency that its proposal was technically unacceptable on December 27, 1988, and took exception to specific reasons given for the rejection. Under our Bid Protest Regulations, a protest must be filed within 10 working days of the date the basis for protest was first known or should have been known. 4 C.F.R. § 21.2(a)(2) (1988). As the protest was based on information in the December 27 notice that the firm's proposal was technically unacceptable, the protest on this ground had to be filed with the agency (no agency-level protest was filed here) or our Office no later than

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January 11.1/ Hence, Richard-Rogers' January 17 filing was judged untimely and dismissed.

Richard-Rogers argues in its request for reconsideration that the dismissal was improper because it was not informed by OPM of our filing requirements until January 3, and that its filing period therefore should run from that date, making its January 17 filing timely. The protester also claims that, since it sent its protest on January 9, by certified mail, any delay was due to the ineptitude of the United States Postal Service, for which the firm should not be penalized.

Our Bid Protest Regulations are published in the Federal Register, and hence protesters are charged with constructive notice of their contents. The Master Collectors, Inc.--Reconsideration, B-228938.4, Jan. 19, 1988, 88-1 CPD ¶ 47. Therefore, Richard-Rogers' alleged unawareness of the filing requirements is not a proper basis for waiving them, and we decline to do so. Id.

As for the alleged delay in delivery by the Postal Service, we refer to our Regulations, which provide that "filed" means receipt of the protest and other submissions in our Office. 4 C.F.R. § 21.0(g); Koger Properties Inc.--Request for Reconsideration, B-230090.2, Feb. 12, 1988, 67 Comp. Gen. \_\_\_\_\_, 88-1 CPD ¶ 146. Neither the fact that the protest was mailed, nor the date it was mailed, is relevant to its timeliness; a protester makes use of the mails, including certified mail, at its own risk, and a delay in the mails does not serve as a basis for waiving our Regulations and considering an untimely protest. Hexagon Honeycomb Corp.--Reconsideration, B-219316.2, Aug. 1, 1985, 85-2 CPD ¶ 117.

Our filing requirements are not trivial matters. Bid protests require effective, equitable, procedural standards, both so that parties have a fair opportunity to present their cases and so that protests can be resolved in a reasonably speedy manner. The Master Collectors, Inc.--Reconsideration, B-228938.4, supra. Our Regulations are intended to provide for expeditious consideration of procurement actions without unduly disrupting the

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1/ Actually, the protest of the solicitation provisions had to be filed even earlier--prior to the closing date for receipt of proposals. 4 C.F.R. § 21.2(a)(1).

government's procurement process. To waive our timeliness requirements for the protester's sole benefit would only serve to compromise the integrity of those rules. Id.

The dismissal is affirmed.

*for* *Seymour Epos*  
James F. Hinchman  
General Counsel