



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Thompson Sign Company--Request for
Reconsideration

File: B-239453.2

Date: July 5, 1990

Ernest Thompson, for the protester.
Christine S. Melody, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging agency's refusal to allow submission of protester's revised proposal is untimely where filed more than 10 days after protester was on notice of refusal.
2. Untimely protest is not converted to a timely protest where protester alleges that contracting agency gave it erroneous advice regarding General Accounting Office (GAO) bid protest procedures because protesters are assumed to have constructive knowledge of GAO's Bid Protest Regulations.

DECISION

Thompson Sign Company requests reconsideration of our dismissal on April 30, 1990, of its protest as untimely under request for proposals (RFP) No. N00146-90-R-0014, issued by the Department of the Navy, for outdoor electronic display signs.

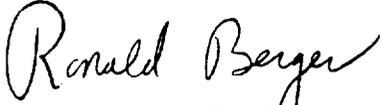
We affirm the dismissal.

On March 15, 1990, the contracting officer declined to allow Thompson to submit a revised proposal lowering the price of its offer because the closing date for submission of best and final offers (BAFO) had passed. A second attempt by Thompson to submit a revised proposal was refused by the Department of the Navy on March 23. Thompson then filed a protest with our Office on April 27, alleging that it had missed the deadline for submission of BAFOs because either the amendment, which changed the due date, was unclear or the time allowed for submission of revised proposals was unreasonably short.

Our Bid Protest Regulations require protests such as Thompson's to be filed with our Office not later than 10 days after the basis of the protest is known or should have been known. 4 C.F.R. § 21.2(a)(2) (1990). Thus, because the protest was not filed until April 27, more than 10 working days after March 15, we dismissed the protest as untimely. Thompson now states that it had no reason to protest until after it received the notice of award to Daktronics, Inc., on April 4. We disagree. Thompson clearly was put on notice on March 15, and again on March 23, that its revised proposal would not be considered for award, yet failed to file a protest until more than a month later.^{1/}

Thompson also states that after receiving the notice of award, it arranged a meeting with Navy contracting officials on April 16, at which the contracting officer advised Thompson that it "had 10 days to submit a written protest," presumably from the date of the meeting. Inaccurate advice by a government employee, however, does not excuse a protester's failure to file in a timely manner. While it is unfortunate that the protester was allegedly given erroneous advice by the contracting agency, the timeliness requirements of our Bid Protest Regulations may not be waived by actions of the contracting agency. Air Cleaning Specialists, Inc., Request for Recon., B-236936.2, Nov. 3, 1989, 89-2 CPD ¶ 422. Our timeliness standards are strictly applied and exist to permit resolution of contract award disputes without undue disruption to the procurement process. Moreover, the Regulations are published in the Federal Register, and, as a matter of law, protesters are charged with constructive notice of their content. Thus, a protester's lack of actual knowledge of our filing requirements will not convert an untimely protest to a timely one. Chapman Smidt Hardware, Inc.--Request for Recon., B-237888.2, Jan. 8, 1990, 90-1 CPD ¶ 35.

The dismissal is affirmed.


for James F. Hinchman
General Counsel

^{1/} We note that Thompson's April 27 protest was untimely even if measured from Thompson's receipt of the award letter on April 4.