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Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Danville-Findorff, Inc.--Reconsideration
File: B-242934.2
Date: March 21, 1991

Chris Hayward for the protester, Glenn G. Wolcott, Esq., and Paul I. Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

For purposes of establishing timeliness, a protest is filed when actually received by our Office. Protester relying on telefax equipment to file protest bears the risk of nonreceipt of transmission by GAO.

DECISION

Danville-Findorff, Inc. (Danville) requests reconsideration of our February 14, 1991, dismissal of its protest challenging the award of a contract to Griffin Services, Inc., by the Department of the Treasury under request for proposals (RFP) No. CS-90-041. We dismissed the protest as untimely because it was filed more than 10 days after the protester knew, or should have known of the basis for its protest.

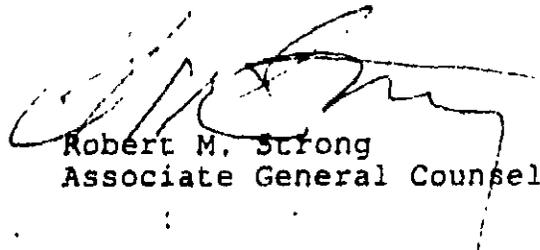
We affirm our dismissal.

In its reconsideration request, Danville states that on January 30, 1991, it received written notice from the Department of Treasury that award had been made to another offeror at a price of \$971,375. Based on this notice, Danville protested that a proposal offering this price could not have complied with the RFP's requirements, and that the agency improperly failed to comply with the Federal Acquisition Regulation (FAR) requirements for conducting discussions prior to contract award. Danville asserts that it sent this protest to our Office via telefax on February 11, 1991. However, our records show that our Office did not receive any telefax transmission from Danville, and that we received the original copy of Danville's protest on February 14, 1991.

Our Bid Protest Regulations require that a protest challenging the award of a contract must be filed no later than 10 working days after the protester knew or should have known of the basis for protest, 4 C.F.R. § 21.2(a)(2) (1990). The term "filed" as defined in our Regulations means receipt of the protest in GAO, 4 C.F.R. § 21.0(g). A protester relying on telefax equipment to file a protest does so at its own risk and GAO's nonreceipt of the protest does not serve as a basis for waiving our timeliness rules. See Sioux Falls Shopping News--Recon., B-236421.2, Oct. 30, 1989, 89-2 CPD ¶ 394; Koger Properties, Inc.--Recon., B-230090.2, Feb. 12, 1988, 88-1 CPD ¶ 146.

Since Danville's protest was based on information it obtained on January 30, 1991, more than 10 working days prior to GAO's receipt of its protest on February 14, the protest was properly dismissed as untimely filed.

The dismissal is affirmed.



Robert M. Strong
Associate General Counsel