



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: WesternWorld Services, Inc. d/b/a The Video
Tape Company
File: B-243808
Date: May 14, 1991

Patricia H. Wittie, Esq., Kirkpatrick & Lockhart, for the
protester.
Catherine M. Evans, Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

Protest of cancellation of solicitation is dismissed as
untimely where initial, agency-level protest against cancella-
tion was filed more than 10 working days after protester
received notice of cancellation.

DECISION

WesternWorld Services, Inc. d/b/a The Video Tape Company
(VTC) protests the cancellation of invitation for bids (IFB)
No. MDA902-91-B-0007, issued by the Armed Forces Radio and
Television Service for videotape duplication services.

We dismiss the protest as untimely filed.

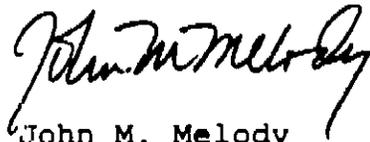
At bid opening on February 19, 1991, two firms, VTC and West
Coast Duplicating, timely submitted bids; West Coast was the
apparent low bidder. A third bid, that of incumbent con-
tractor AME, Inc., was not accepted because it was late. On
February 28, VTC received a copy of an amendment canceling
the IFB on the bases that both bids received were nonrespon-
sive, and the government's requirements had changed. VTC then
contacted the contracting officer concerning the responsive-
ness of its bid. The contracting officer subsequently agreed
with VTC that its bid was responsive, and on March 7 issued a
revised cancellation notice stating that only one responsive
bid was received and the government's requirements had changed
significantly. On April 3, VTC filed an agency-level protest
against the cancellation; the agency denied that protest by
letter dated April 12. On April 15, VTC received a copy of a
revised IFB, which contains some requirements different from
those stated in the canceled IFB. On April 26, VTC protested
to our Office, arguing that the changes in the government's
requirements were not significant enough to warrant

cancellation of the former IFB after bid opening, and that the agency's actual reason for canceling and reissuing the IFB was to afford AME another opportunity for award.

Our Bid Protest Regulations require that protests be filed not later than 10 working days after the basis for protest is known or should have been known. 4 C.F.R. § 21.2(a)(2) (1991). Our Regulations also provide that a matter initially protested to an agency will be considered only if the initial protest to the agency was filed within the time limits for filing a protest with our Office. 4 C.F.R. § 21.2(a)(3). Thus, to be timely under our Regulations, VTC's agency-level protest would have to have been filed within 10 working days after it learned of the basis of its protest. VTC was notified by a solicitation amendment dated March 7 that the IFB remained canceled even though its bid was responsive. Since the record does not indicate when VTC received the amendment, we presume that the amendment was mailed on March 7 and that it was received within 1 calendar week of that date, that is, by March 14. See TLC Moving, Inc.-- Recon., B-234850.2, Apr. 11, 1989, 89-1 CPD ¶ 372. VTC did not protest the cancellation to the agency until April 3, more than 10 working days after it presumably received the notice. Although VTC then protested to our Office within 10 days after its agency-level protest was denied, its protest was untimely under the above standard. See Tandy Constr., Inc., B-238619, Feb. 22, 1990, 90-1 CPD ¶ 206.

VTC argues that its protest to our Office is timely because it did not know until it received the revised IFB that the changes in the agency's requirements allegedly were insignificant and thus did not provide a proper basis for cancellation of the IFB after bid opening, and that the cancellation and resolicitation therefore appeared to be an improper attempt to afford AME another opportunity for award. However, VTC's agency-level protest, based on the March 7 revised cancellation notice, contained essentially the same protest grounds as its protest to our Office. Therefore, it is clear that VTC knew of its basis of protest when it received the March 7 notice.

The protest is dismissed.



John M. Melody
Assistant General Counsel