

144062
Morrow



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: The Howry Company

File: B-244142

Date: May 29, 1991

Paula B. Howry for the protester.
Barry D. Segal, Esq., General Services Administration, for the agency.
Charles W. Morrow, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest against rejection of bid under custodial services solicitation, which was filed more than 10 working days after the protester received denial of its agency-level protest, is untimely filed under the General Accounting Office (GAO) Bid Protest Regulations; protester's initial filing of a protest with the General Services Board of Contract Appeals, which dismissed the protest for lack of subject matter jurisdiction, does not toll the time for filing a GAO protest.

DECISION

The Howry Company protests the rejection of its bid under invitation for bids (IFB) No. GS-07P-91-0027-7ADB, issued by the General Services Administration (GSA) for custodial services.

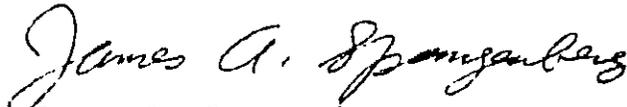
We dismiss the protest as untimely.

By letter dated April 8, 1991, GSA notified Howry that its bid was determined to be nonresponsive for failing to submit a signed Certificate of Procurement Integrity with the bid. On April 15, the protester filed an agency-level protest against GSA's action. GSA denied Howry's agency-level protest by letter dated April 26, 1991, which Howry received on April 29, as evidenced by GSA's certified return receipt. On May 9, Howry filed a protest against GSA's action at the General Services Administration Board of Contract Appeals (GSCBA). The GSCBA dismissed the protest for lack of subject matter jurisdiction on May 16. Our Office received Howry's protest on May 21.

Our Bid Protest Regulations contain strict rules requiring the timely submission of protests. Where a protest is initially filed with a contracting agency, any subsequent protest to the General Accounting Office, to be considered timely, must be filed within 10 working days of formal notification of or actual or constructive knowledge of initial adverse agency action. 56 Fed. Reg. 3,759 (1991) (to be codified at 4 C.F.R. § 21.2(a)(3)). This timeliness rule is applicable even if the protester elects to file its protest initially with the GSBICA, since filing with the GSBICA does not toll the time for filing with our Office. See Product Research, Inc.--Recon., B-237193.3, Jan. 8, 1990, 90-1 CPD ¶ 33.

Since Howry received formal notice of the adverse agency action on its agency-level protest on April 29, its protest to our Office, filed more than 10 working days later, is untimely and not for consideration.

The protest is dismissed.



James A. Spangenberg
Assistant General Counsel