



14-4953

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

Decision

Matter of: Management Engineering Associates--
Reconsideration

File: B-245284.2

Date: October 1, 1991

William S. Ward for the protester.
Katherine I. Riback, Esq., and John Brosnan, Esq., Office of
the General Counsel, GAO, participated in the preparation of
the decision.

DIGEST

The request for reconsideration is denied where the initial protest was untimely on its face, and the protester seeks on reconsideration to introduce facts that would establish the timeliness of its protest, but were not included in its initial protest to the General Accounting Office.

DECISION

Management Engineering Associates (MEA) requests reconsideration of our August 20, 1991, dismissal of its protest against the rejection of its offer and the award of a contract to another offeror under request for proposals (RFP) No. 1PI-0006-91, issued by the Department of Justice.

We dismissed the protest, received on August 19, as untimely, because it was filed more than 10 working days after July 29 when MEA received notice that its best and final offer was rejected. Our Bid Protest Regulations state that protests not based upon alleged improprieties in a solicitation must be filed no later than 10 working days after the protester knew, or should have known, of the basis for protest, whichever is earlier, 4 C.F.R. § 21.2(a)(2) (1991).

MEA requests that we consider its protest contending that it was not until a telephone inquiry to the contracting officer on August 5, that it knew fully of its basis for protest, and that it protested to our Office within 10 days of this conversation.


We deny the reconsideration request.

Our Regulations state that a protester has the obligation to provide information establishing the timeliness of the protest when on its face the protest otherwise appears untimely. 56 Fed. Reg. 3759 (1991) (to be codified at 4 C.F.R. § 21.2(b)); Hannibal Constr., Inc.--Recon., B-237679.2, Mar. 19, 1990, 90-1 CPD ¶ 303. In other words, when a protest appears untimely on its face, a protester who is in possession of facts that would establish its timeliness, but does not initially provide these facts to our Office will not be permitted to introduce for the first time in a reconsideration request the information upon which the timeliness of the protest relies. 56 Fed. Reg. 3759, supra (to be codified at 4 C.F.R. § 21.2(b)); id.

Here, we are presented with just such a situation. MEA's protest was on its face untimely. MEA's only statement in its initial protest concerning its August 5 telephone conversation was that the inquiry did not produce "a cooperative response." MEA's protest letter does not give any indication that anything regarding the basis of protest was learned from that conversation. In fact, the protest letter refers at the beginning to the rejection notice received on July 29, as if it was the source of the protest grounds. Therefore, since MEA did not establish that its protest was timely in its initial letter, it was properly dismissed.

Finally, MEA argues that it should not be held to our timeliness standards because it had no way of knowing about our Regulations. A protester's lack of actual knowledge of our Regulations is not a defense to dismissal of its protest as untimely because prospective contractors are on constructive notice of our Regulations since they are published in the Federal Register and the Code of Federal Regulations. Chapman Smidt Hardware, Inc.--Recon., B-237888.2, Jan. 8, 1990, 90-1 CPD ¶ 35.

The request for reconsideration is denied.


for James F. Hinchman
General Counsel