



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

Decision

Matter of: Information Systems & Networks Corporation--
Reconsideration

File: B-250427.2

Date: October 15, 1992

Roma Malkani for the protester,
Stephen J. Gary, Esq., Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

When a protest appears untimely on its face and is dismissed for that reason, General Accounting Office will not reconsider the dismissal based on facts and information previously in the protester's possession.

DECISION

Information Systems & Networks Corporation (ISN) requests reconsideration of our September 22, 1992, dismissal of its protest of a contract award under solicitation No. DAHC90-92-R-0030, issued by the Department of the Army. ISN contends that, in finding its protest untimely, we failed to consider all pertinent information.

We deny the request.

We dismissed ISN's protest as untimely because it was filed more than 10 working days after the protester initially received actual or constructive knowledge of adverse agency action on its agency-level protest. We explained that where a protest initially has been filed with a contracting activity, any subsequent protest to our Office, to be considered timely, must be filed within 10 working days of "actual or constructive knowledge of initial adverse agency action." 4 C.F.R. § 21.2(a)(3) (1992); Consolidated Indus. Skills Corp., B-231669.2, July 15, 1988, 88-2 CPD ¶ 58.

ISN argues that consideration should now be given to "information which was not disclosed" to our Office in its initial protest submission. Specifically, ISN states that after receiving a negative response to its protest from the contracting agency, it contacted the Small Business Administration (SBA), which it now believes was the proper forum for its objections. Since SBA--as distinct from the contracting agency--apparently has not yet taken adverse

action, ISN argues that its protest to our Office was in fact timely.

Our Bid Protest Regulations provide that a protester has an obligation to provide information establishing the timeliness of its protest when on its face the protest otherwise appears untimely. 4 C.F.R. § 21.2(b); Contact Int'l Corp.--Recon., B-246937.2, Feb. 5, 1992, 92-1 CPD ¶ 150. Thus, when a protest appears untimely on its face and is dismissed for this reason, we will not reconsider our dismissal based on facts and information that were in the protester's possession and could have been provided to our Office when the protest was filed, Contact Int'l Corp.--Recon., supra; Management Eng'g Assocs.--Recon., B-245284.2, Oct. 1, 1991, 91-2 CPD ¶ 276.

ISN's protest appeared untimely on its face, and the firm could have, but did not, provide in its protest the "information which was not disclosed" and which, it now asserts, makes its protest timely; therefore, we decline to consider ISN's request. Contact Int'l Corp.--Recon., supra.

The request is denied.


Ronald Berger
Associate General Counsel