



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Piedmont Systems, Inc.

File: B-249801

Date: October 28, 1992

Robert M. Cambridge, Esq., for the protester.
Douglas P. Larsen, Jr., Esq., and Steven H. Tryon, Esq.,
Department of the Navy, for the agency.
Ralph O. White, Esq., and Andrew T. Pogany, Esq., Office of
the General Counsel, GAO, participated in the preparation of
the decision.

DIGEST

Protest is dismissed for failure to file comments on the agency report within 10 working days after receipt of the report where--despite the protester's initial assertion about when it received the report--the agency provides documentary evidence, including a sign-in sheet, establishing the date and time protester's counsel received the agency report.

DECISION

Piedmont Systems, Inc. protests any award under request for proposals (RFP) No. N00167-91-R-0055, issued by the Department of the Navy, for scientific, engineering, and technical management services in support of ship acoustics technology programs. Piedmont argues that the specifications set forth in the RFP unduly restrict competition and are tailored for the capabilities of the incumbent contractor.

We dismiss the protest because the protester failed to file its comments on the agency report within 10 working days after its receipt of the agency report, as required by our Bid Protest Regulations, 4 C.F.R. § 21.3(j) (1992).

On October 1, 1992, our Office received, by facsimile transmission, the protester's comments on the agency report submitted in response to its protest. These comments begin with the following statement: "Counsel for [Piedmont] received the referenced agency report on September 17, 1992. Today is the tenth working day from that date."

On October 14, our Office received from the Navy a request to dismiss Piedmont's protest on the basis that the protester failed to file its comments on the agency report within 10 working days, as required by our Bid Protest Regulations. In its letter, the Navy submitted a sworn statement from an employee in the Counsel's Office, Navy Supply Systems Command. In that statement, the employee explains that Piedmont's counsel telephoned the Navy's offices on September 16, arranged to pick up the agency's report later that same day, and did so. The Navy also enclosed a copy of a page from its Visitor's Log, which shows that protester's counsel signed in at 1:07 p.m. on September 16. Accordingly, the Navy argues that Piedmont obtained its copy of the report on September 16 and filed its comments more than 10 days thereafter.

In response to an invitation to reply to the Navy's allegation, the protester's counsel admitted that he must have, in fact, obtained the report on September 16, not September 17.

The filing deadlines in our Regulations are prescribed under the authority of the Competition in Contracting Act of 1984; their purpose is to enable us to comply with the statute's mandate that we resolve protests expeditiously. See 31 U.S.C. § 3554(a) (1988); Green Mgmt. Corp.--Recon., B-233598.2, Feb. 27, 1989, 89-1 CPD ¶ 208. To avoid delay in the resolution of protests, our Regulations provide that a protester's failure to file comments within 10 working days, or to file a request that the protest be decided on the existing record, or to request an extension of the time for submitting comments, will result in dismissal of the protest. 4 C.F.R. § 21.3(j); Prio-Leau Culinary Servs., Inc.--Recon., B-236373.6, Jan. 23, 1990, 90-1 CPD ¶ 90; Electronic Research Assocs., Inc.--Recon., B-220291.3, Jan. 15, 1986, 86-1 CPD ¶ 46.

Here, where the record, including a sign-in sheet completed by protester's counsel, provides convincing evidence of the date the protester received the agency report, where the protester's counsel does not dispute that evidence, and where the protester failed to file its comments within 10 working days of that date (or to request an extension), we find that the protester has failed to comply with the filing deadlines in our Regulations.

The protest is dismissed.


Ronald Berger
Associate General Counsel