



Comptroller General  
of the United States

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Washington, D.C. 20548

# Decision

**Matter of:** CardioMetrix--Reconsideration  
**File:** B-255656.2  
**Date:** April 11, 1994

Robert J. Loring for the protester,  
Cheryl A. Phillips, Esq., Department of the Navy, for the  
agency.  
Aldo A. Benejam, Esq., Office of the General Counsel, GAO,  
participated in the preparation of the decision.

## DIGEST

Protest was properly dismissed where it appeared untimely on its face and the facts and information purporting to establish timeliness were in the protester's possession when the protest was filed but were not timely submitted.

## DECISION

CardioMetrix requests that we reconsider our dismissal of its protest challenging certain purchasing procedures at the Philadelphia Naval Medical Clinic, Philadelphia, Pennsylvania. We dismissed the protest because it was untimely filed.

We affirm the dismissal of the protest.

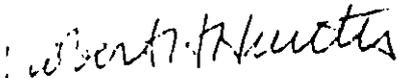
In its protest letter CardioMetrix alleged that the Philadelphia Naval Medical Clinic does not equitably distribute small purchases among qualified providers of medical services, as required by Federal Acquisition Regulation § 13.106(a). In support of its position, the protester attached copies of eight invoices issued by the Medical Center for medical services. The eight orders referenced in the protest were dated from late 1992 to early 1993; the latest invoice CardioMetrix submitted was dated February 17, 1993. CardioMetrix filed its protest on November 3, 1993, more than 8 months after the date of the most recent order challenged by the protester. Since the protest was filed substantially beyond the 10-day period established in our Regulations, we dismissed the protest as untimely. 4 C.F.R. § 21.2(a)(2) (1993).

In its reconsideration request, CardioMetrix argues that our prior decision warrants reversal based upon a letter the firm filed in our Office after we had dismissed the protest.

In that letter, dated November 11, CardioMetrix provided additional information explaining that it received the eight invoices it had submitted with its protest on October 22, 1993, in response to a Freedom of Information Act (FOIA) request, which it believed rendered its November 3 protest timely. That letter was not filed in our Office until November 15.

Our Regulations provide that a protester has an obligation to include in its protest all the information establishing the timeliness of its protest. 4 C.F.R. § 21.2(b). Here, CardioMetrix's protest appeared untimely on its face, and the protester provided no evidence with its protest letter showing that it had received the information that formed the basis of its protest on October 22, as a result of a FOIA request. While the protester's November 11 letter contained the type of information contemplated by our Regulations explaining the timeliness of its protest, that letter did not reach our Office until November 15.<sup>1</sup> CardioMetrix does not explain, and the record does not indicate, why the protester failed to provide with its protest the information it believes rendered its protest timely, even though that information was in its possession at the time it filed the protest. Accordingly, the protester has failed to provide any basis for us to reconsider the matter. See Contact Int'l Corp.-Recon., B-246937.2, Feb. 5, 1992, 92-1 CPD ¶ 150.

The dismissal is affirmed.

  
 Robert P. Murphy  
 Acting General Counsel

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<sup>1</sup>We note that in addition to being omitted from the initial protest, the information in the November 11 letter was submitted more than 10 working days after October 22, the date on which the protester contends it first became aware of its basis for protest.