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S. Becker



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Southern California Helicopters, Inc.

**File:** B-257325

**Date:** May 24, 1994

### DECISION

Southern California Helicopters, Inc. protests award of a contract to any other bidder under invitation for bids (IFB) No. DAHA04-94-B-0011 (-0011), issued by the National Guard Bureau, Departments of the Army and Air Force. Southern asserts that it was not provided an opportunity to compete under this solicitation.

We dismiss the 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 protest.

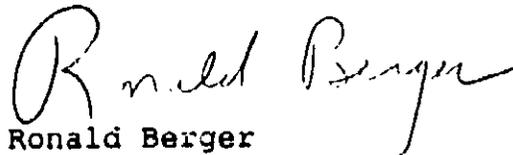
Southern originally submitted a bid under IFB No. DAHA04-94-B-0005 (-0005) on January 31, 1994. On February 14, the agency advised all bidders under IFB -0005 that the solicitation had been canceled due to ambiguous specifications. The agency further advised bidders that they would be retained on a bidder's list and forwarded a new solicitation when it was issued.

On April 6, Southern contacted the contracting officer to inquire about the expected issuance date of the new solicitation. Southern was advised that the new solicitation, IFB No. -0011, had already been sent out and bids were due on that same day, April 6. On April 11, Southern protested to the agency that it had not been provided a copy of IFB No. -0011. The protester states that on April 26, it received the agency's denial of its protest. Southern's protest to our Office was filed on May 16, 1994.

Our Bid Protest Regulations contain strict rules requiring timely submission of protests. 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). The term "adverse agency action" is defined in our Bid Protest Regulations as any action or inaction on the part of a contracting agency which is prejudicial to the position taken in a protest filed with the agency. 4 C.F.R. § 21.0(f); Consolidated Indus. Skills Corp., B-231669.2, July 15, 1988, 88-2 CPD ¶ 58. To be considered timely, Southern was required to file its protest with our Office not later than May 11, 1994, 10 days after April 26, the date the protester states it received the denial of its agency-level protest.

The protest is dismissed.

  
Ronald Berger  
Associate General Counsel