



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Jay Automotive Specialties, Inc.

File: B-266236

Date: October 17, 1995

DECISION

Jay Automotive Specialties, Inc. protests the award of a contract to T & M Enterprises, Inc. by the Department of the Air Force under solicitation No. F29650-95-B-0023.

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. Specifically, award was made on July 27, 1995. Jay Automotive initially filed a protest with the agency on August 25. The agency denied that protest on September 1. By letter of September 5, Jay Automotive requested that the agency reconsider the protest. The instant protest was filed on September 22, more than 10 days after the agency's September 1 adverse action on its protest.

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 (closing occurring 1 day following filing of agency-level protest constitutes initial adverse agency action). Continued pursuit with the agency does not toll our timeliness requirements.

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These timeliness rules reflect the dual requirements of giving parties a fair opportunity to present their cases and resolving protests expeditiously without unduly disrupting or delaying the procurement process. Air Inc.-Request for Recon., B-238220.2, Jan. 29, 1990, 90-1 CPD ¶ 129. In order to prevent those rules from becoming meaningless, exceptions are strictly construed and rarely used. Id.

The protest is dismissed.

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