

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

40392

FILE: B-180146

DATE: January 30, 1974

MATTER OF: Johnson Associates Inc.

DIGEST: Request by a disappointed bidder for our review of procurement procedures need not contain exact words of protest to be characterized as bid protest. See B-176717(1), February 8, 1973; 4 CFR 20.1(b).

Where protest is received in our Office more than 5 working days after protestor knew basis for protest, protest is untimely, notwithstanding fact that late filing was caused by time required to mail letter from protestor's office (Saigon, South Vietnam) to Washington, since 4 CFR 20.2(a) specifically cautions protestors to transmit protests in that manner that will assure earliest receipt.

Request for proposals (RFP) No. 98764 was issued by the Agency for International Development (AID), United States Department of State. Johnson Associates Inc. (Johnson), a firm located in Saigon, South Vietnam, submitted a proposal which was received by AID and was deemed unacceptable by the contracting officer. Johnson was advised of this fact by a letter from the contracting officer dated October 17, 1973, which Johnson states it received on November 15, 1973.

On November 15, Johnson sent a letter to the contracting officer registering its protest against the rejection of its "late" proposal. A copy of this letter was sent to our Office with a cover letter which in pertinent part read:

"I enclose copies of correspondence about a matter which I believe warrants the attention of your office.

* * * * *

"I believe a review of the enclosed file will be enlightening to your office. While the enclosed are self explanatory, additional details are available upon request.

"Your comments and suggestions will be much appreciated."

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For the purposes of GAO consideration, a request by a disappointed bidder for our review of the procurement need not contain the exact words of protest before it can be characterized as a bid protest. See B-176717(1) February 8, 1973; 4 CFR 20.1(b). Consequently, we have treated the issues set forth in Johnson's November 15 letters as a protest before our Office. However, we must consider the protest to be untimely in accordance with our Interim Bid Protest Procedures and Standards, 4 CFR 20, et seq. (copy enclosed).

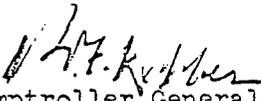
Section 20.2(a) states that:

"* * * bid protests shall be filed not later than 5 days after the basis for protest is known * * * The term 'filed' as used in this section means receipt in the * * * General Accounting Office * * * and protestors are, therefore, cautioned that the protests should be transmitted or delivered in that manner which will assure earliest receipt." (Emphasis added.)

Section 20.2 defines "days" as "working days."

Johnson indicates its awareness of this basis for protest by its November 15 letters. However, the protest was not received here until November 26, 1973--more than 5 working days after Johnson learned of the rejection of its proposal. While the delay in transmitting the protest may have been caused in part by the distance involved in sending a letter from Saigon to Washington, as noted above, protestors are cautioned to transmit protests in a manner which will assure earliest receipt.

For the reasons noted above, this matter is not properly for consideration by the General Accounting Office. Accordingly, we are closing our file on the matter without consideration of the merits of the protest.


Deputy Comptroller General
of the United States