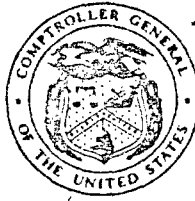


DECISION



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

FILE: B-198071.2

DATE: April 24, 1980

MATTER OF: Henry R. Stevenson--Reconsideration

DIGEST:

Information copy of protest sent to agency, even if received timely, does not operate to render timely otherwise untimely protest to GAO. Further, consultation with counsel prior to filing protest with GAO is not valid basis for extending 10-day time limitation where protester is aware of adverse agency action and the reason therefor. Therefore, prior decision refusing to consider untimely protest is affirmed.

Mr. Henry R. Stevenson [requests for reconsideration of our decision in Mr. Henry R. Stevenson, B-198071, March 26, 1980, 80-1 CPD _____, in which we dismissed as untimely Mr. Stevenson's protest of the Army's cancellation of request for proposals (RFP) No. DAAD 07-80-R-0005 and refused to consider his claim for proposal preparation costs.]

Mr. Stevenson now presents two reasons why he believes reconsideration is appropriate. First, he sent the contracting officer a copy of the protest to our Office. In his view this constitutes filing a protest with the contracting agency. Since Mr. Stevenson has heard nothing from the contracting agency he believes that his protest to our Office is timely. Second, upon receipt of the notice of cancellation Mr. Stevenson consulted his attorney in order to ascertain whether grounds for a valid protest existed. It was not until February 29, 1980, that an Army attorney advised Mr. Stevenson's attorney of the Army's interpretation of the statute in question.

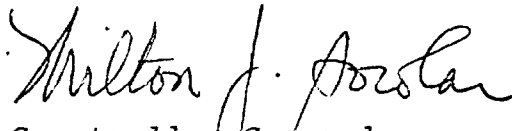
*Recommendations
Propose all preparation
costs
entirely procedure
Solicitation cancellation
Order*

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In our opinion Mr. Stevenson's reasons provide insufficient bases for reconsideration of our prior decision. First, we have held that filing an information copy of a protest to our Office with the contracting activity will not operate to render timely an otherwise untimely protest to our Office, even where the information copy would have constituted a timely protest had it in fact been a protest to the contracting activity. Society Brand, Inc., 55 Comp. Gen. 133 (1975), 75-2 CPD 91. Second, the Army's notice to Mr. Stevenson stated the adverse agency action, cancellation of the RFP, and the reason therefor, higher headquarter's implementation of Section 802 of Public Law 96-107 (Section 802). We have taken the position that consultation with counsel prior to filing a protest is not a valid basis for extending our 10-day time limitation where a protester is sufficiently apprised of the reasons for the rejection of its proposal so that it either knew or should have known the bases for its protest. Power Conversion, Inc., B-186719, September 20, 1976, 76-2 CPD 256. We believe that the Army was under no obligation to explain its interpretation of Section 802 and that 10 working days provided counsel sufficient time within which to interpret the statute and determine whether the Army's action is proper.

Accordingly, the protest is not for consideration on its merits and our prior decision dismissing the protest as untimely is affirmed.



Comptroller General
For the of the United States