

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

60401

FILE: B-185524

DATE: January 20, 1976

MATTER OF: Johnny Ryan Company

~~0993279~~
099221**DIGEST:**

Although section 20.2(b)(3) of Bid Protest Procedures provides for consideration of any protest received after prescribed time limit if sent by certified or registered mail not later than fifth day prior to final date of filing, protest sent by certified mail within time limit in section 20.2(b)(3) but received after final date for filing because address different from that set forth in section 20.1(b) was used is not for consideration.

Johnny Ryan Company (Ryan) has protested against the award of a contract to Williams Moving Company under invitation for bids (IFB) F11623-76-09007 issued by the Department of the Air Force, Scott Air Force Base, Illinois.

Ryan protested the award to the contracting officer at Scott AFB on October 21, 1975, and again on November 6, 1975. By letter dated November 20, 1975, the contracting officer denied Ryan's protest. On December 1, 1975, Ryan protested by certified mail to our Office. However, due to the protester's use of an erroneous mailing address, the protest was not filed in our Office until December 12, 1975.

Where a protest has been filed initially with the contracting agency, section 20.2(a) of the Bid Protest Procedures of our Office requires any subsequent protest to our Office to be filed within 10 working days from the date of formal notification of or actual or constructive knowledge of initial adverse agency action. 40 Fed. Reg. 17979 (1975). The term "filed" as used in section 20.2(a) of the procedures means receipt in our Office. See section 20.2(b)(3). According to Ryan's letter of November 28, 1975, to the contracting officer, it received the contracting officer's letter of denial on November 25, 1975. Therefore, Ryan had until December 10, 1975, to file a timely protest with our Office.

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The letter of December 1, 1975, from Ryan was not received in our Office until December 12, 1975. The protest was addressed to:

United States General Accounting - FZAPP & FZAPS
Chester A. Arthur Building
Washington, D.C. 20406

Zip code 20406 designates the General Services Administration (GSA), Crystal Mall Building 4, Virginia. The alphabetic symbols FZAPP and FZAPS, placed after the United States General Accounting Office, are correspondence symbols used by GSA for its Planning and Procedures Branch, and Special Reports Branch, respectively. The return receipt for the certified mail was signed by a GSA employee on December 9, 1975. The certified letter was not received in our Office from GSA until December 12, 1975.

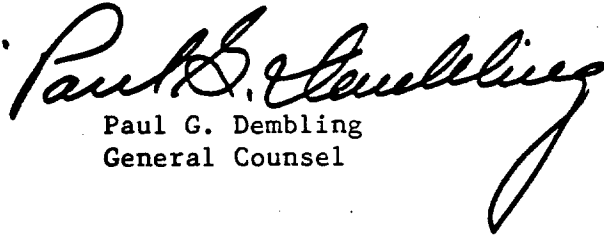
Section 20.1(b) of the Bid Protest Procedures, entitled "Filing of protest," specifically sets forth the address that must be used on protests as follows:

"Such protests must be in writing and addressed to the General Counsel, General Accounting Office, Washington, D.C. 20548. To expedite handling within the General Accounting Office, the address should include 'Attn: Bid Protest Control Unit.'"

The protest was not received in our Office within 10 working days from notification of the procuring agency's denial due to the misaddressing by the protester. Although section 20.2(b)(3) of the Bid Protest Procedures provides for the consideration of any protest received in our Office after the time limits prescribed in the procedures if it was sent by registered or certified mail not later than the fifth day prior to the final date for filing, the protest must be properly addressed as set forth in section 20.1(b) cited above. Section 20.2(b)(3) cautions that protests should be transmitted or delivered in the manner which will assure the earliest receipt. Delay in the transmission caused by the misaddressing by the protester is not a reason for consideration under the good cause provision of section 20.2(c). See National Keypunch Services, Inc., B-182304, October 22, 1974, 74-2 CPD 221.

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For the foregoing reasons, Ryan's protest must be regarded as untimely and not for consideration on the merits.


Paul G. Dembling
General Counsel