

DOCUMENT RESUME

01649 - [A1051854]

[Protest Denied Where Bidder Failed to Timely Acknowledge Change in Minimum Wage of Contract]. B-188483. April 1, 1977. 2 pp.

Decision re: Southwest Aircraft Services, Inc.; by Paul G. Dembling, General Counsel.

Issue Area: Federal Procurement of Goods and Services (1900).

Contact: Office of the General Counsel: Procurement Law I.

Budget Function: National Defense: Department of Defense -
Procurement & Contracts (058).

Organization Concerned: Department of the Air Force: McGuire
AFB, NJ.

Authority: 4 C.F.R. 20.2(a). 4 C.F.R. 20.2(b)(2).

Bidder protested rejection of its bid for failure to acknowledge a change in minimum wage rate of contract for aircraft cleaning, paint stripping, and other services. The protest was denied for untimeliness. (DJM)

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DECISION



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

*T. Sasso
Proc I*

FILE: B-188483

DATE: April 1, 1977

MATTER OF: Southwest Aircraft Services, Inc.

DIGEST:

Where agency advised protester of grounds of protest on November 26, 1976, at latest, protest received by agency on December 16, 1976, was untimely under 4 C.F.R. § 20.2(b)(2) and, therefore, will not be considered by our Office. See 4 C.F.R. § 20.2(a).

By letter dated February 25, 1977, Southwest Aircraft Services, Inc. (Southwest), has protested the rejection of its bid for failure to acknowledge a Service Contract Act wage determination amendment changing the minimum hourly wage rate from \$2.30 to \$3.59 under invitation for bids (IFB) F28609-77-0-9001 for aircraft washing, paint stripping, etc., issued by McGuire Air Force Base on October 10, 1976. Bids were opened November 18, 1976.

Previously, by letter to the contracting officer dated December 10, 1976, Southwest noted that paragraph 10 of the IFB provided that the Government may waive "informalities and minor irregularities" in bids. By letter dated December 27, 1976, Southwest formally protested to the Air Force and by letter dated February 18, 1977, the Air Force denied Southwest's protest.

The Air Force has advised us that during the week of November 22, 1976, the contracting officer orally notified Southwest that its bid had been rejected because of Southwest's failure to acknowledge the aforementioned Service Contract Act wage determination amendment. Viewing this fact in the light most favorable to Southwest, it was orally advised of the ground for its protest on Friday, the last working day of the week, November 26, 1976.

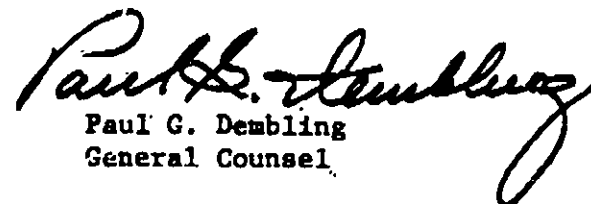
Our Bid Protest Procedures, 4 C.F.R. § 20.2(a), provide that where a protest has been initially filed with the agency on a timely basis, any protest to our Office will be considered if filed within 10 days of formal notification of initial adverse agency action. With regard to the timeliness of Southwest's initial protest to the agency,

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section 20.2(b)(2) (1976) of our Procedures provides that protests must be filed within 10 working days after the basis of the protest is known. Thus, in order for Southwest's protest to be timely it must have been filed with the Air Force by December 10, 1976.

We believe that it is questionable whether Southwest's letter of December 10, 1976, noted above, can be considered as a protest. Assuming without deciding that it was a protest, the Air Force has advised us that it was not received until December 16, 1976.

Accordingly, Southwest's protest is untimely and not for consideration on the merits.


Paul G. Dembling
General Counsel

