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DECISION



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

FILE: B-203150.2

DATE: December 27, 1982

MATTER OF: Mark Dunning Industries, Inc.

DIGEST:

Protest which alleges competitors' bids are ambiguous and refers to another protest letter to GAO dated 6 weeks previously but never received by GAO, is untimely since it was filed more than 10 working days after the protester knew the basis for protest. The fact that the prior letter may have been lost in the mail does not permit GAO to consider the untimely protest.

Mark Dunning Industries, Inc. (MDI) protests any award to either of the two lowest bidders under Air Force invitation for bids (IFB) No. F22600-82-B-0036. The IFB was for medical facility housekeeping services at Keesler Air Force Base. The protester alleges that the two bids contain discrepancies between unit and extended prices and therefore are ambiguous. We dismiss the protest as untimely filed.

Our Bid Protest Procedures require that a protest of this type be filed within 10 working days after the basis for protest was known or should have been known, whichever is earlier. 4 C.F.R. § 21.2(b)(2)(1982). MDI's protest, filed with this Office on November 8, 1982, references a previous protest letter dated September 27, 1982, which the protester alleges to have mailed to this Office, but which we never received. Clearly then, MDI knew the basis for protest sometime before September 27, so that the November 8 protest, filed 6 weeks later, is untimely.

Moreover, the fact that the September 27 protest letter may have been lost in the mail does not permit our Office to consider the untimely protest. Hawaii C.A.P. Directors Association, Inc.--Reconsideration, B-204427.2, February 8, 1982, 82-1 CPD 107. A protest is not filed for the purpose of our timeliness procedures until received by this Office, except under limited circumstances. See 4 C.F.R. § 21.2(b)(3). In this respect, our Bid Protest Procedures caution bidders that they

B-208150.2

should transmit protests in a manner which will insure their earliest receipt, and that otherwise untimely protests will not be considered unless sent by registered or certified mail not later than the fifth working day prior to the final date for filing a protest. Where the letter is lost, the only acceptable evidence to establish the date of mailing is the original receipt from the U.S. Postal Service, Id. The protester, however, was unable to present such evidence in response to inquiries by this Office.

The protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel