

DECISION



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

29869

FILE: B-216897

DATE: November 28, 1984

MATTER OF: OMNI Technology

DIGEST:

Protest that sole-source award of contract was improper is untimely where filed more than 8 months after date of publication of notice in Commerce Business Daily (CBD) of decision to negotiate with one source, since protester is charged with constructive notice of CBD announcement and protest was not filed within 10 working days after basis of protest was known or should have been known.

OMNI Technology protests the sole-source award of a contract to Assurance Technology Corp. under request for proposals No. N00014-84-R-0045 issued by the Department of the Navy, Office of Naval Research. The contract is for electronic and electromechanical parts for the payload data management system scheduled for flight aboard the space shuttle in 1986 and was awarded to Assurance as a modification to an ongoing contract for services and supplies of the same type. OMNI contends that it should have been given an opportunity to compete with Assurance for the award of the contract.

We dismiss the protest in accordance with 4 C.F.R. § 21.3(g) (1984) of our Bid Protest Procedures, which provides that, where the propriety of dismissal becomes clear only after information is provided by the agency, the protest may be dismissed at that time without further development.

OMNI's protest dated October 18, 1984, was filed with our Office on October 22. Notice that sole-source negotiations with Assurance would be conducted was synopsized in

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the Commerce Business Daily (CBD) of February 6, 1984. The Navy began negotiations with Assurance in July and awarded that firm the contract on September 10. Notice of the award was published in the CBD on October 13.

Our Bid Protest Procedures require that protests be received in our Office or the contracting agency within 10 working days after the basis for protest is known or should have been known, whichever is earlier. 4 C.F.R. § 21.2(b)(2) (1984). Moreover, protesters are charged with constructive notice of announcements published in the CBD. Econometric Research, Inc., B-213947, Jan. 23, 1984, 84-1 CPD ¶ 103. Therefore, OMNI should have known of the Navy's decision to negotiate on a sole source basis with Assurance as a result of the CBD notice of February 6. The fact that OMNI filed this protest on October 22, more than 8 months later, renders the protest untimely. See WGBH Educational Foundation, B-211092, July 21, 1983, 83-2 CPD ¶ 105.

Harry R. Van Cleve
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General Counsel