

DECISION



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

FILE: B-218102 **DATE:** February 21, 1985
MATTER OF: Mounts Engineering

DIGEST:

Protest is dismissed because protester filed protest with contracting agency more than 10 days after the basis of protest was known.

Mounts Engineering (Mounts) protests the award of a contract under solicitation No. S0145066 to Potomac Engineering and Surveying (Potomac) by the Department of the Interior, Bureau of Mines. The contract, calling for "Collection of Mining Induced Subsidence Data Sets at Blacksville No. 2 Mine, Green County, PA," was awarded on November 19, 1984.

We dismiss the protest.

By letter dated November 20, 1984, the Bureau of Mines informed all bidders, including Mounts, of the award to another firm and the dollar value of the award. Mounts admits receiving this letter shortly after the award was made. Mounts filed an initial protest of the award with the contracting officer by letter dated December 21, 1984. The contracting officer denied the protest by letter dated January 17, 1985. A subsequent protest was received by our Office on January 31, 1985.

Our Bid Protest Regulations require that protests be filed within 10 days after the basis of protest is known or should have been known. 49 Fed. Reg. 49,917, 49,420 (1984) (to be codified at 4 C.F.R. § 21.2(a)(2)). They also provide that a protester has 10 days after initial adverse agency action on a protest filed with the contracting agency to file a subsequent protest with our Office provided the initial protest to the agency was timely filed. Id. § 21.2(a)(3).

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Mounts' argument is that when its unit prices and Potomac's are evaluated according to Mounts' understanding of the IFB, Mounts is the low bidder and therefore should have received the award. Mounts concludes that the agency's failure to award it a contract must have resulted from either a mathematical error made in the tabulation of bids or from a failure to properly apply the evaluation criteria contained in the IFB. (Correspondence attached to Mounts' protest indicates the agency interpreted the IFB differently than Mounts.)

Regardless of whether the agency's award to Potomac resulted from a mathematical error or from the agency's interpretation of its IFB, it was incumbent upon Mounts to file a protest within 10 working days after it was notified of the award to Potomac and the unit prices that firm had bid.

Here, the initial protest was filed with the contracting officer sometime after December 21, 1984--approximately 1 month after the Bureau of Mines notified Mounts (by letter of November 20) that award had been made to Potomac and the amount of the award. Since the initial protest was filed with the Bureau of Mines more than 10 days after Mounts was aware of its basis for protest, it is untimely, and we will not consider the matter further.

The protest is dismissed.



Robert M. Strong
Deputy Associate General Counsel