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DECISION



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

FILE: B-218154.2 **DATE:** March 6, 1985

MATTER OF: Brunk Tool & Die Company

DIGEST:

Dismissal of original protest for failure to file copy of protest with agency affirmed where the contracting agency had not been furnished a copy of the protest 6 working days after receipt of the protest by GAO.

Brunk Tool & Die Company requests reconsideration of our dismissal of its protest concerning invitation for bids (IFB) No. DAAA09-84-B-0844, issued by the Department of the Army. We dismissed the protest because Brunk failed to furnish a copy of its protest to the contracting agency within 1 day after the protest was filed with our Office. For the reasons that follow, we conclude that the protest was properly dismissed.

Brunk's protest was filed on Monday, February 11, 1985. Under our Bid Protest Regulations, Brunk was required to furnish a copy of its protest to the contracting agency by Tuesday, February 12. See § 21.1(d) of our Bid Protest Regulations, 49 Fed. Reg. 49,417, 49,420 (1984) (to be codified at 4 C.F.R. § 21.1(d)). The agency had not received a copy of Brunk's protest as of Friday, February 20.

The protester states that it was unaware of this "unrealistic" regulatory requirement; that it sent a copy of its protest to the contracting agency by regular mail (its protest to our Office was filed via commercial courier); that it was therefore unable to verify receipt by the contracting agency; and that it notified the contracting agency by telephone of the filing of the protest so that they were "aware of the situation."

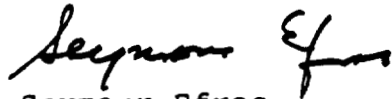
First, the protester's lack of actual knowledge of our regulations provides no basis for reopening the file since our Bid Protest Regulations are published in the

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Federal Register and protesters therefore are charged with constructive notice of their contents. See Peter A. Tomaino, Inc.--Request for Reconsideration, B-208167.2, Jan. 10, 1983, 83-1 CPD ¶ 19. Second, the Competition in Contracting Act of 1984, Pub. L. No. 98-369, § 2741(a), 98 Stat. 1175, 1198, and our implementing regulations impose a strict time limit of 25 working days for an agency to file a written report with our Office from the date it receives telephone notice of the protest from our Office. § 21.3(c), 49 Fed. Reg. 49,420. Extensions are considered exceptional and are sparingly granted. Despite the protester's contentions, the fact remains that the agency still had not received a copy of the protest 9 calendar days and 6 working days after receipt of the protest by our Office. Any such delay in furnishing a copy of the protest to the contracting agency necessarily delays all subsequent protest proceedings and frustrates our effort to provide effective and timely consideration of all objections to agency procurement actions. We do not think this this purpose would be served by reopening our file on this protest.

The dismissal is affirmed.



Seymour Efros
Associate General Counsel