

DECISION



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

30648

FILE: B-218148.2 DATE: March 11, 1985

MATTER OF: Storage Technology Corporation

DIGEST:

Dismissal of original protest contesting propriety of agency issuance of a purchase order for computer equipment to higher priced competitor is affirmed where the protester failed to furnish a copy of its protest to the contracting agency within 1 day after the protest was filed with GAO.

Storage Technology Corporation (STC) requests reconsideration of our dismissal of its protest concerning request for proposals (RFP) No. FO4699-85-R-0A002, issued by the Department of the Air Force. In its protest, STC contended that the Air Force improperly placed a purchase order for computer equipment to a competitor even though STC's own equipment was technically acceptable and lower priced. We dismissed the protest because STC 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.

STC's protest was filed on Friday, February 8, 1985. Under our Bid Protest Regulations, STC was required to furnish a copy of its protest to the contracting agency by Monday, February 11. 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. § 21.2(d)). The protester states that it "believes" that the contracting agency received at least the enclosure to its protest, if not the protest itself, on Monday, February 11 and therefore that it materially complied with this provision. However, on Tuesday, February 12, the contracting agency informed our Office that it still had not received any communication whatsoever from the protester. In fact, the agency now informs us that the first communication that was received from the protester was a telefaxed copy of the protest

031432

B-218148.2

documents on Wednesday, February 13. The actual protest documents did not arrive until Thursday, February 14.

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 of the telephone notice of the protest from our Office. § 21.3(c), 49 Fed. Reg. 49,420. Extensions are considered exceptional and are sparingly granted. Any delay in furnishing a copy of the protest to the contracting agency therefore 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 that this purpose would be served by reopening our file on this protest.

The dismissal is affirmed.

Harry R. Van Cleve

Harry R. Van Cleve
General Counsel