

DECISION

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

FILE: B-220167.2

DATE: September 30, 1985

MATTER OF: A&M Instrument, Inc.--Request for
Reconsideration

DIGEST:

Where protest is initially submitted without a detailed statement of the legal and factual grounds of protest, but is subsequently followed by a letter that includes the requisite detailed explanation, timeliness of the protest must be measured from the date of receipt of the detailed statement.

A&M Instrument, Inc. requests reconsideration of our September 4, 1985, dismissal of its protest of the award of a contract for multimeters to John Fluke Co. under request for proposals (RFP) No. DLA900-85-R-0517 issued by the Defense Logistics Agency. We dismissed the protest as untimely because the protest, which was initially filed with the contracting agency, was not filed with our Office within 10 working days after the protester had knowledge of initial adverse agency action. Bid Protest Regulations, 4 C.F.R. § 21.2(a)(3) (1985).

We affirm our prior dismissal.

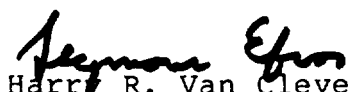
On August 13, we received a telex from A&M that referenced RFP DLA900-85-R-0517 and stated: "A&M Instrument, Inc. reiterates its protest of June 11, 1985. Copies of A&M original protest, data package & DESC reply dated August 5, 1985 to follow week of August 19, 1985." By letter dated August 29, and received in our Office on September 3, A&M stated that it was protesting the award to John Fluke Co. under the RFP cited in its telex and enclosed copies of the documents referenced in the prior telex that set forth the grounds for its protest. Because the telex did not set forth a detailed statement of the legal and factual grounds of protest including copies of relevant documents as required by our regulations, its receipt in our Office did not constitute

033322

the filing of a protest. 4 C.F.R. § 21.1(c)(4); B.H. Aircraft Co., Inc., B-218475.2, May 17, 1985, 85-1 CPD ¶ 568. A&M did not file what properly could be considered a protest under our regulations until September 3, when we received A&M's subsequent letter containing a detailed statement of the protest grounds. Since that letter indicated that the agency had informed A&M on August 5 that it had denied that firm's protest, the September 3 protest to our Office was clearly untimely. See ZB Precision Products, Inc., B-218658, May 10, 1985, 85-1 CPD ¶ 531.

A&M argues that because it did not actually receive the agency's letter denying its agency-level protest until August 12, its protest to our Office is timely. Even assuming an August 12 notification date, the protest is still untimely. Since A&M's telex did not constitute a protest, the actual filing date of September 3 makes the protest untimely regardless of whether A&M was informed of the agency's action on August 5 or August 12.

We affirm our decision.

for 
Seymour Efron
Harry R. Van Cleve
General Counsel