

DECISION

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

FILE: B-220967.2; B-220968.2 **DATE:** December 5, 1985

MATTER OF: Building Maintenance Specialists--
Request for Reconsideration

DIGEST:

1. Dismissal of protest because protester did not furnish a copy of it to the contracting agency within 1 day after filing with GAO is affirmed where the agency states it received its copy more than 1 week after the filing, and the protester has furnished no evidence to show otherwise. The fact that the protester may have sent the copy within the necessary period is not relevant, since the requirement is for receipt by the agency.
2. GAO generally will not review a contracting officer's finding that a small business is not responsible where the Small Business Administration, which has conclusive jurisdiction in the area, denied the firm a COC.

Building Maintenance Specialists (BMS) requests that we reconsider our dismissals of two bid protests the firm filed, both of which involved requisitions for janitorial and cleaning services issued by the Army Corps of Engineers (Corps). We affirm the dismissals.

We dismissed one protest--our reference number B-220967--because BMS did not furnish a copy of the protest to the Corps within 1 day of filing the protest with our Office and also did not protest in a timely fashion. BMS now contends that a copy of the protest was sent to the Corps' Seattle office within the required time limit. We dismissed the second protest, in which BMS, a small business, complained about the contracting officer's determination that the firm was nonresponsible, in Building Maintenance Specialists, B-220968, Nov. 6, 1985, 85-2 C.P.D. ¶ . The reason for dismissal was that the Small Business Administration (SBA), which has conclusive jurisdiction in the area, refused to issue BMS a certificate of competency (COC), thereby concurring in the contracting officer's finding of nonresponsibility. BMS contends that the Corps did not provide our Office with accurate information concerning the nonresponsibility determination.

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The requirement for a protester to file a copy of the protest with the contracting agency within 1 day after filing with our Office is at section 21.1(d) of our Bid Protest Regulations, 4 C.F.R. part 21 (1985). The reason we generally will dismiss a protest where the protester does not comply with section 21.1(d) is that, otherwise, all subsequent protest proceedings will be delayed, thereby frustrating our efforts to consider all objections to agency procurement actions in a timely manner. We received protest B-220967 on October 31. The Corps informs us that its Seattle office received a copy of the protest on November 8, and BMS has furnished no evidence to show otherwise. Thus, the protest was dismissed properly. (We therefore need not address the protest's timeliness.) In this respect, section 21.1(d) requires a protester to ensure that the contracting officer actually receives the copy within 1 day, so that the fact that BMS may have sent it to the Corps within that period is not relevant.

With regard to our other dismissal, the Corps has documented that, on two occasions, BMS failed to file for a COC, and the SBA therefore twice denied the firm a COC--on October 18 and November 15. Because SBA has conclusive jurisdiction in this area, we will not reopen our file on the protest.

Our dismissals of the two protests are affirmed.

for *Sepperson* *for*
 Harry R. Van Cleve
 General Counsel