

House
PL-11
33089

DECISION



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

FILE: B-220000.4 **DATE:** December 23, 1985
MATTER OF: Swager Communications, Inc.--
Reconsideration

DIGEST:

Prior decision dismissing a protest is affirmed where question raised in the protester's original submission did not state a valid basis for protest and was untimely raised.

Swager Communications, Inc. requests reconsideration of our decision, Swager Communications, Inc., B-220000.2, Nov. 21, 1985, 85-2 CPD ¶ _____, in which we dismissed the firm's protest against the award of a contract under request for proposals No. 85-R-0669-0134, issued by the Agency for International Development (AID). We dismissed the protest because the firm's submission essentially consisted of a series of questions concerning the conduct of the procurement, but did not raise specific allegations of agency misconduct so as to provide any adequate basis for protest. Moreover, to the extent that the protest could be read as raising specific issues for our consideration concerning the acceptability of its competitor's product, the issues were untimely raised since the protest was not filed within 10 working days after Swager knew or should have known of its bases for protest.

Swager requests reconsideration of our November 21 decision because of the issue concerning the possible disclosure of proposal information by two AID evaluators during the evaluation process. In its original submission, Swager had questioned why the evaluators had been removed from their positions; in the firm's stated view, this was "proof" that AID suspected irregularities in the conduct of the procurement. Swager now states in its request for reconsideration that AID is currently investigating the matter, and the firm apparently believes that the issue therefore constitutes an adequate basis for this Office to consider the protest. We do not agree.

034094

As we emphasized in our prior decision, the protester has the burden of proving its case, and we will not conduct investigations for the purpose of establishing whether a protester may have a valid basis for protest. See William A. Stiles, III--Reconsideration, B-215922.3, Feb. 19, 1985, 85-1 CPD ¶ 208. Thus, the mere question raised as to why AID removed the evaluators from their positions was legally and factually insufficient for our consideration of the matter. See Bid Protest Regulations, 4 C.F.R. §§ 21.1(c)(4), 21.1(e) (1985).

Moreover, Swager's request for reconsideration in fact confirms that it was aware several months prior to filing its original protest on November 13 of suspected misconduct on the part of the evaluators. In this regard, the firm states that it first reported the matter to AID in July of 1985. Consequently, the issue was not raised with this Office until well beyond the expiration of the 10-working day period imposed by our regulations for the timely filing of protests alleging other than solicitation improprieties. See 4 C.F.R. § 21.2(a)(2).

Swager has clearly failed to meet its burden to show that our prior decision contains legal or factual errors which would warrant its reversal or modification. See Department of Labor--Reconsideration, B-214564.2, Jan. 3, 1985, 85-1 CPD ¶ 13.

Accordingly, our prior decision is affirmed.

for *Raymond E. Bros*
Harry R. Van Cleve
General Counsel