

DECISION



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

FILE: B-221928 DATE: April 10, 1986
MATTER OF: Intuition Inc.

DIGEST:

While disputes over the timeliness of protests ordinarily are resolved in favor of the protester, where agency furnishes signed and dated return receipt for mail which supports agency's position that protester first learned of rejection of bid and basis for rejection more than 10 working days before the protest was filed in GAO, the protest is viewed as untimely.

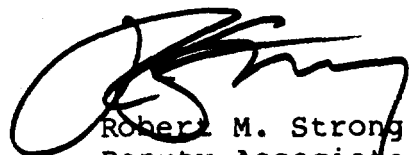
Intuition Inc. (Intuition) protests the rejection of its bid under invitation for bids No. D/L 85-25 issued by the Department of Labor (DOL) for the acquisition and maintenance of desktop microcomputers, printers, modems, software, cables and manuals. Intuition contends that its bid met all of the salient characteristics set forth in the solicitation and was improperly rejected.

We dismiss the protest in accordance with section 21.3(f) of our Bid Protest Regulations, which provides that, when the propriety of dismissal becomes clear only after information is provided by the contracting agency, the protest may be dismissed at that time without further development. 4 C.F.R. § 21.3(f) (1985).

Our Bid Protest Regulations require that a protest to our Office be filed within 10 working days after the basis of protest is known or should have been known, whichever is earlier. 4 C.F.R. § 21.2(a)(2). DOL rejected Intuition's bid and explained the basis of rejection by letter of February 20, 1986. Therefore, the timeliness of Intuition's protest, which was filed with our Office on March 13, 1986, is dependent on when the protester first learned of the basis of protest, namely, the date of its receipt of the February 20 letter rejecting its bid. Intuition contends that the letter was received on February 27, in which case its protest is timely, but the agency contends that the letter was received on February 26, in which case the protest is untimely.

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DOL sent the letter of February 20 by "certified mail return receipt requested" and has furnished our Office with a copy of the return receipt. The receipt is signed by a representative of Intuition and dated February 26. Although our Office generally resolves disputes over timeliness in the protester's favor, see SEI Information Technology, B-219668, Dec. 12, 1985, 85-2 C.P.D. ¶ 649, here, we have evidence establishing that Intuition in fact received notice of its rejection on February 26. Under these circumstances, we must conclude that Intuition learned the basis of its protest on February 26 and, therefore, the protest filed with our Office on March 13 is untimely. 4 C.F.R. § 21.2(a)(2); see Federal Sales Service, Inc., B-208675, Mar. 22, 1983, 83-1 C.P.D. ¶ 282.



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