



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Kone Instruments, Inc.--Request for Reconsideration
File: B-223455.3
Date: July 21, 1986

DIGEST

A mailgram protest is filed for purposes of General Accounting Office (GAO) timeliness rules when it is received in GAO notwithstanding when it was sent. GAO time/date stamp establishes the time of receipt absent other evidence to show actual earlier receipt.

DECISION

Kone Instruments, Inc., requests reconsideration of our June 26, 1986, dismissal of Kone's protest against the allegedly restrictive specifications of Defense Logistics Agency request for proposals (RFP) No. DLA120-86-R-0983. We dismissed the protest because it did not meet the requirement of our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (1986), that a protest against an apparent solicitation impropriety be filed before the closing date for receipt of initial proposals. The RFP closed on June 19 but we did not receive Kone's protest until June 24.

Kone, in requesting reconsideration, asserts that it sent the protest by mailgram to our Office on the morning of June 18, the day before the RFP closed. Kone contends that its protest was submitted within reasonable time to be delivered to our Office and that it has no control over our date stamping procedures.

A protest is filed for purposes of our timeliness rules when it is received in the General Accounting Office, 4 C.F.R. § 21.2(b), notwithstanding when it was sent. Sweepster Jenkins Equipment Co., Inc.--Reconsideration, B-221726.2, Mar. 7, 1986, 86-1 C.P.D. ¶ 276. Moreover, our Office's time/date stamp establishes the time we received protest materials absent other evidence to show actual earlier receipt. Yale Materials Handling Corp.--Reconsideration, B-223180.2, June 12, 1986, 86-1 C.P.D. ¶ _____. Although Kone's mailgram protest was dated June 18, our time/date stamp shows receipt on June 24. Since there is no evidence that we received the mailgram earlier, the protest properly was found untimely.

Even if the mailgram had been received prior to the closing, the protest would have been for dismissal because it failed to include a detailed statement of the legal and factual grounds of protest, 4 C.F.R. § 21.2(a)(1), and a letter furnishing this information was received after the closing date.

Our dismissal of Kone's protest is affirmed.

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