



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Dalton Construction Company, Inc.
File: B-224262
Date: October 24, 1986

DIGEST

Notwithstanding oral protest made to the contracting officer, protest filed more than 10 working days after the protester knew the basis of protest is untimely since oral protests are no longer provided for under the Federal Acquisition Regulation.

DECISION

Dalton Construction Company, Inc. (Dalton), protests the award of a contract for repair of the sanitary sewer system at the Naval Air Station, Moffett Field, California, to Pacific Underground (Pacific), under invitation for bids (IFB) No. N62474-86-C-5664, issued by the Department of the Navy. Dalton contends that Pacific's bid was nonresponsive because it failed to acknowledge an amendment to the IFB.

We dismiss the protest as untimely.

Bid opening was September 18, 1986. Dalton states that it orally advised the contracting officer after bids had been opened that Pacific's bid was nonresponsive because it did not acknowledge amendment No. 001 to the IFB. Dalton further advises that the contracting officer assured it that award would not be made until September 30, 1986, and that it would have the opportunity to lodge its protest in writing. Before Dalton was able to file its protest, the contracting officer awarded the contract to Pacific. By letter dated October 2, 1986, which we received on October 3, 1986, Dalton protested the matter to our Office.

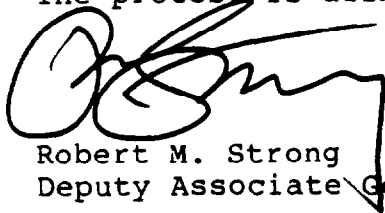
Our Bid Protest Regulations require that protests must be received in our Office not later than 10 working days after the basis of protest is known or should have been known, whichever is earlier in order to be considered filed timely. See 4 C.F.R. § 21.2 (a)(2) (1986). Since Dalton knew the

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basis of protest on September 18 and we did not receive its protest until October 3, the 11 working day, we find that it is untimely.

Although Dalton orally protested the matter to the contracting officer at bid opening, the oral complaint did not constitute a protest such that a subsequent protest to our Office would be timely. Oral protest are no longer provided for under the Federal Acquisition Regulation. FAR, 48 C.F.R. § 33.101 (1985) (Federal Acquisition Circular No. 84-6, Jan. 15, 1985); K-II Construction, Inc., B-221661, Mar. 18, 1986, 86-1 C.P.D. ¶ 270.

The protest is dismissed.



Robert M. Strong
Deputy Associate General Counsel