



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Dr. Carl G. Foster
File: B-225078.2
Date: November 26, 1986

DIGEST

Protest filed more than 10 working days after protester learned of initial adverse agency action--contracting officer's cancellation of solicitation and award of the requirement to another firm through small purchase procedures--in response to protest filed with agency is untimely. Protester's assertion that it was unaware of timeliness rules does not provide a basis for considering an untimely protest since the protester is charged with constructive notice of Bid Protest Regulations through their publication in the Federal Register.

DECISION

Dr. Carl G. Foster, requests reconsideration of our notice of October 29, 1986, which dismissed his protest concerning various irregularities that allegedly occurred under an unidentified solicitation issued by the Bureau of Indian Affairs (BIA), Department of the Interior.

We dismissed the protest as untimely because it was not filed with our Office within 10 working days following initial adverse agency action on a protest filed with the BIA. Our action was in accordance with our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(3) (1986), which provide that when a protest has first been filed with the contracting agency, any subsequent protest to this Office must be filed within 10 working days after the protester knew or should have known of initial adverse agency action on its protest to the agency.

We affirm the dismissal.

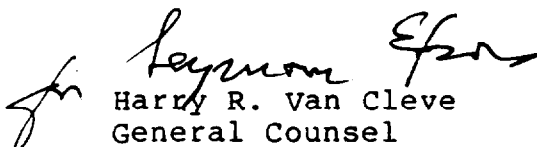
The record shows that Dr. Foster protested to the BIA concerning these alleged irregularities prior to October 3, 1986 (apparently on September 2, 1986). By letter dated October 3, the contracting officer responded to Dr. Foster and, among other things, informed him that a solicitation for training was canceled. Dr. Foster also stated that the

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requirement was allegedly improperly awarded to another firm through small purchase procedures. Dr. Foster filed his protest with our Office on October 29, by a letter dated October 19. We dismissed the protest because Dr. Foster did not protest within 10 days of his receipt of the contracting officer's October 3 letter.

In his request for reconsideration, Dr. Foster has not attempted to show that his protest was, in fact, timely filed. Rather, Dr. Foster asserts that the BIA contracting officer failed to advise him of the bid protest timeliness requirements. However, this does not excuse the untimeliness of the protest. Our regulations are published in the Federal Register and, therefore, protesters are charged with constructive notice of their contents. International Shelter Systems, Inc.--Request for Reconsideration, B-221563.2, May 27, 1986, 86-1 CPD ¶ 295. A protester's professed unawareness of these published regulations is not a proper basis for waiving their requirements. Agha Construction--Reconsideration, B-218741.3, June 10, 1985, 85-1 CPD ¶ 662. Our regulations are intended to provide for the expeditious consideration of protests without unduly disrupting the government's procurement process. To waive our timeliness requirements for the protester's sole benefit would be inconsistent with their purpose. Hartridge Equipment Corporation--Request for Reconsideration, B-219982.2, Oct. 17, 1985, 85-2 CPD ¶ 418.

We affirm the dismissal.


Harry R. Van Cleve
General Counsel