



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: AAA Engineering & Drafting, Inc.
File: B-225431.2
Date: December 3, 1986

DIGEST

Dismissal of original protest contesting propriety of agency rejection of the protester's proposal as technically unacceptable is affirmed where the protester failed to furnish a copy of its protest to the contracting officer within 1 day after filing with the General Accounting Office.

DECISION

AAA Engineering & Drafting, Inc. (AAA) requests reconsideration of our decision in AAA Engineering & Drafting, Inc., B-225431, Nov. 5, 1986, 86-2 CPD ¶ _____, dismissing AAA's protest contesting the rejection of its proposal as technically unacceptable under request for proposals (RFP) No. NC3000-6-00058 issued by the National Oceanic and Atmospheric Administration, Department of Commerce. We dismissed the protest because AAA failed to furnish a copy of its protest to the contracting agency within 1 day after the protest was filed with our Office. We affirm the dismissal.

AAA's protest was filed in our Office on October 27, 1986, and the protest indicated that a copy had been mailed to the contracting officer. By letter dated October 31, 1986, and by a telephone call on November 5, the agency advised us that the contracting officer had not received a copy of the protest by the 7th working day after the initial filing with our Office. Counsel for the protester now states that he mailed a copy of the protest to the contracting officer on October 23, 1986, the same day that he mailed the protest to our Office. Further, he states that he addressed the letter to the contracting officer with the exact address that appeared on the official letterhead stationery used by the contracting officer in correspondence with AAA on two occasions. The address used by the protester was as follows:

037533

[Name of contracting officer]
Contracting Officer
National Oceanic and Atmospheric Administration
National Capital Administration Support Center
Rockville, Maryland 20852^{1/}

On November 2, 1986, the letter to the contracting officer was returned to counsel for the protester by the Postal Service marked "Return to Sender." Counsel for the protester then readdressed the letter, using additional information found in solicitation documents in his possession, and remailed the letter.

The protester essentially argues that its protest should not be dismissed because either the letter was properly addressed with a zip code dedicated exclusively to the agency-addressee or the contracting officer failed to provide the firm with sufficient address information in his letterhead to enable the firm to furnish him with a copy of the protest.

Our Bid Protest Regulations, 4 C.F.R. § 21.1(d) (1986), provide that the protester shall furnish a copy of the protest to the contracting officer and "the contracting officer must receive a copy of the protest no later than 1 day after the protest is filed" with our Office. Since our Bid Protest Regulations specify that the contracting officer must actually receive a copy within 1 day after filing with our Office, we first note that simply depositing a letter with a copy of the protest in the mails obviously does not comply with this requirement. Rather, we think that the Postal Service was an agent of the protester in delivering the copy of the protest to the contracting officer, and the Postal Service's failure to deliver the letter must be attributable to AAA, which, as principal, must bear the consequences of its agent's failure to do so. See Ling Electronics, Inc.--Reconsideration, B-199748.2, Oct. 1, 1980, 80-2 CPD ¶ 238. Despite the protester's arguments, the fact remains the contracting officer was not properly served within the regulatory timeframe despite the fact that the protester had in his possession sufficient information in the solicitation files with which to properly address the letter.

^{1/} Despite the assertions by the protester that it used the "exact address," the official letterhead of the contracting officer additionally identified the addressee-agency as "United States Department of Commerce." The protester has not explained this discrepancy.

The dismissal is affirmed.

for Seymour E. Van
Harry R. Van Cleve
General Counsel