



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: MedSource, Inc.--Request for Reconsideration

File: B-225635.2

Date: March 23, 1987

### DIGEST

Decision dismissing protest of exclusion from competitive range as untimely is affirmed because subsequent protest filed after award was made is also untimely; the fact that award was made to another offeror is not relevant to the propriety of the rejection of the protester's proposal.

### DECISION

MedSource, Inc. requests reconsideration of our decision, MedSource, Inc., B-225635, Jan. 27, 1987, 87-1 CPD ¶ \_\_\_\_\_, dismissing its protest of the Department of the Interior's rejection of its proposal under request for proposals (RFP) No. 14-01-0001-87-R-02. We affirm our decision.

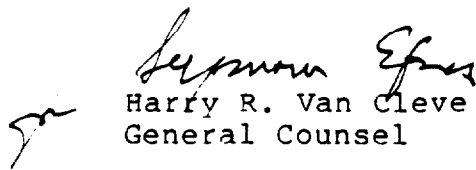
On December 18, 1986, upon learning that it was no longer in the competitive range, MedSource wrote to the agency protesting the award of any contract under the RFP. MedSource failed to state a basis for protest in its letter, however, leading the agency to deny the protest on January 13. MedSource filed a protest with our Office the following day, which we dismissed as untimely in our January 27 decision. We explained that although a protester who initially protests to the contracting agency has 10 working days after notification of initial adverse agency action to protest to this Office, Bid Protest Regulations, 4 C.F.R. § 21.2(a)(3) (1986), MedSource's letter to the agency did not constitute a protest since it did not specify any basis for protest.

On January 13, while we were considering MedSource's protest, the protester learned that Interior had awarded a contract to another offeror. On January 21, it filed a second protest with our Office again objecting to the award on the basis that its proposal had been improperly rejected. This protest

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is the subject of MedSource's request for reconsideration. MedSource argues that even if its original protest to our Office was untimely, this second protest should have been considered.

MedSource raised no new grounds of protest in its January 21 letter; it merely reasserted its argument that any award to another offeror would be improper because it had been erroneously excluded from the competitive range. A protest must be filed not later than 10 working days after the basis of protest is known, 4 C.F.R. § 21.2(a)(2), and MedSource learned that it had been excluded from the competitive range on December 18, 1986. The protester has not shown that the subsequent award to another offeror is relevant to the propriety of the earlier rejection of its proposal. Thus, its January 21 protest of that rejection is also untimely. The decision is affirmed.

  
Harry R. Van Cleve  
General Counsel