



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Atlantic Management Center--Reconsideration
File: B-228068.3
Date: September 30, 1987

DIGEST

1. In the absence of affirmative evidence to show actual earlier receipt, GAO's time/date stamp is accepted as evidence of the time of receipt of materials relating to protests at GAO.
2. A protester makes use of the mail service at its own risk and a delay or loss in the mails does not serve as a basis for considering untimely filed materials.

DECISION

Atlantic Management Center (AMC) requests reconsideration of our dismissal of its protest, B-228068.2, under request for proposals DTFA01-87-R-02751 issued by the Federal Aviation Administration (FAA). We dismissed the protest because AMC did not file in a timely manner. We affirm the prior dismissal.

AMC states that on August 10, 1987, it received notice of the FAA's adverse action concerning its letter of protest. Our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(3) (1987), provide that a bid protest is untimely if it is not filed with GAO within 10 working days after the protester has actual or constructive knowledge of initial adverse agency action. The protest was date stamped with GAO September 3, and therefore was dismissed as untimely.

AMC argues that, although the protest was date stamped September 3, its protest should be considered timely because it was mailed on August 19, several days before the 10 working days deadline.

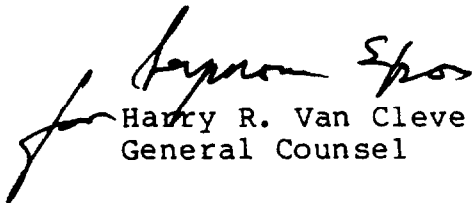
The term "filed" is defined as having been received in GAO. 4 C.F.R. § 21.12(b). The well-established rule is that the GAO time/date stamp is the only acceptable evidence of the time of receipt of materials relating to protests at GAO absent affirmative evidence to the contrary to show actual earlier receipt. Bruce Rahmani--Reconsideration, B-219312.7, Mar. 13, 1986, 86-1 CPD ¶ 249.

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AMC provides no evidence that the protest was received timely. Moreover, AMC is unable to explain why its certified letter was not received when it "should" have been. As we stated in Argus Services, Inc., B-213689, Mar. 19, 1984, 84-1 CPD ¶ 325, a protester makes use of the mails at its own risk and a delay in the mails does not serve as a basis for considering untimely filed materials. The mere assertion that a letter should have arrived by a certain date is of no consequence.

In the absence of any other evidence to the contrary, we must rely on the time/date stamp as evidence of the time of receipt. Since the protest was not received within the 10 working day period, the protest was properly dismissed.

The dismissal is affirmed.


Harry R. Van Cleve
General Counsel