



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Inter-Controls, Inc.--Request for Reconsideration
File: B-228573.3
Date: March 2, 1988

DIGEST

Protest filed more than 10 days after the basis for the protest was known is untimely and is not for consideration under the "good cause" exception to our timeliness regulation where no compelling reasons beyond the protester's control prevented the filing of the protest.

DECISION

Inter-Controls, Inc. (ICI), requests reconsideration of the dismissal of its protest in connection with the Naval Air Development Center request for proposal N62269-87-R-0200.

We affirm our dismissal.

ICI's protest was originally filed on October 13, 1987, and on October 20, 1987, the protest was dismissed pursuant to 4 C.F.R. § 21.1(f) for failure to state a basis for protest. ICI became aware of a basis of protest on October 21, 1987, when it received documentation that had previously been unavailable. ICI, however, did not file a new bid protest with us when it obtained the documentation or became aware of the basis for the protest; the next correspondence we received from ICI after the original protest was dated December 7, 1987, and was received on December 17, 1987. Our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1987), require that protests be filed not later than 10 days after the basis of protest is known or should have been known, whichever is earlier. Because ICI did not file its protest with us by November 4, 1987, the 10th working day after the basis for protest were known, we dismissed it as untimely.

ICI now suggests that we should waive the timeliness requirements under the good cause exception to our timeliness requirements. It argues that General Accounting Office (GAO) should not have dismissed its October 13

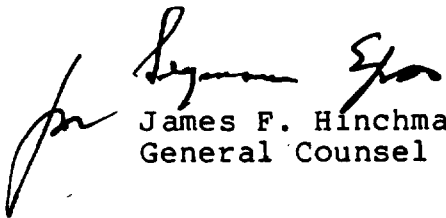
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protest because the protest indicated that further documentation which would state a basis would be forthcoming. ICI contends that the failure to obtain the documentation caused the "premature" dismissal by GAO. ICI misconstrues our regulations regarding the 10-day rule and our prior dismissal. Our dismissal was not based on ICI's failure to supplement its October 13 protest within 10 days. Rather, the 10 day period in this case did not begin to run until ICI received the documentation forming the basis of its protest. The dismissal of the October 13 protest could have been overcome by filing a new protest which states a basis for the protest anytime after the dismissal, provided that it was filed within 10 days of learning of that new basis.

The good cause exception to our timeliness requirements is limited to circumstances where some compelling reason beyond the protester's control prevents the protester from filing a timely protest. Dontas Paining Company, B-226797, May 6, 1987, 87-1 CPD ¶ 484. ICI has provided no indication that it was prevented from filing within 10 days of receiving the documentation or learning of the basis of its protest. Thus, we find that ICI's circumstances do not qualify as good cause for waiver of our timeliness rule.

ICI also mentions in passing the "significant issue" exception to our timeliness rule. However, ICI does not allege or provide any evidence that its protest falls within this limited exception.

The dismissal is affirmed.


James F. Hinchman
General Counsel