



**The Comptroller General  
of the United States**

Washington, D.C. 20548

# Decision

**Matter of:** Republic Maintenance of Kentucky, Inc.

**File:** B-231123

**Date:** June 2, 1988

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## DIGEST

Protest filed with the General Accounting Office subsequent to agency-level protest is dismissed as untimely where the original protest was untimely filed with agency.

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## DECISION

Republic Maintenance of Kentucky, Inc. (Republic), protests the cancellation of invitation for bids (IFB) No. DACA03-87-B-0009, issued by the United States Army Corps of Engineers, Little Rock District, for the repair of four buildings at Fort Chaffee in Sebastian County, Arkansas. Republic requests reimbursement of its bid preparation costs.

We dismiss the protest as untimely.

Republic, the low bidder at the February 5, 1987, bid opening, bid \$882,166 on the base bid and \$984,285.50 for the base bid and three additive items. The government estimate for the base bid was \$889,024 and \$995,802 for the base bid and three additive items. Since the Army had only \$626,482 available for award at bid opening, it twice requested, and Republic agreed, to extend the bid acceptance period while the Army attempted to obtain additional funds.

By letter dated July 8, 1987, the Army notified Republic that the IFB was canceled due to insufficient funds, and that the work would be redesigned and readvertised as two separate projects. By letter dated August 31, 1987, Republic protested the cancellation of the IFB to the Army and requested payment of its bid preparation costs. The Army denied the protest on April 6, 1988, and Republic filed its protest with our Office on April 25, 1988.

Our Bid Protest Regulations require that a protest of other than an apparent solicitation impropriety be filed within

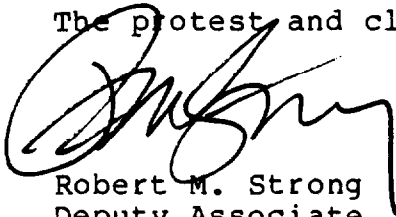
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10 working days after the basis of protest is known or should have been known, whichever is earlier. 4 C.F.R. § 21.2(a)(2) (1988); A-Supply Line, Inc., B-230922, Apr. 8, 1988, 88-1 CPD ¶ \_\_\_\_\_. Republic had notice of the cancellation when it received the Army's letter dated July 8. In the absence of evidence to the contrary, we assume that mail is received within 1 calendar week from the date it was sent. See Technology for Advancement, Inc., B-231058, May 12, 1988, 88-1 CPD \_\_\_\_\_. Republic's protest to the Army, dated August 31, more than a month after it was aware of the basis for its protest, was therefore untimely filed.

The Army did consider Republic's untimely protest and denied it. However, our Bid Protest Regulations provide that in order for us to consider a protest after an initial agency-level protest has been filed, the initial protest must have been timely filed with the agency. 4 C.F.R. § 21.1(a)(3). The fact that an agency considers an untimely agency-level protest does not waive our timeliness requirements. Benju Corp., B-228571, Nov. 4, 1987, 87-2 CPD ¶ 445.

Republic's claim for bid preparation costs is also dismissed because our Office does not consider such claims in relation to a protest not heard on the merits. Leo Moran Construction Co., B-229676, Mar. 11, 1988, 88-1 CPD ¶ 254.

The protest and claim are dismissed.



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