



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Generic Engineering--Reconsideration

File: B-232151.2

Date: September 7, 1988

DIGEST

Dismissal of protest for failure to file a copy with the contracting officer within 1 working day after filing with the General Accounting Office (GAO) is affirmed where agency did not receive copy until 13 working days after the protest was filed at GAO and otherwise did not have timely knowledge of the protest basis.

DECISION

Generic Engineering requests that we reconsider our August 4, 1988, dismissal of its protest of the Navy's decision to change a 100-percent small business set-aside procurement to an unrestricted procurement under request for proposals (RFP) No. N00228-88-R-2106. We dismissed the protest, filed on August 1, because on August 4, the Navy advised our Office that Generic had not provided it with a copy of the protest and therefore failed to comply with section 21.1(d) of our Bid Protest Regulations, 4 C.F.R. Part 21 (1988). That section states that the contracting officer must receive a copy of the protest within 1 working day after the filing in our Office.

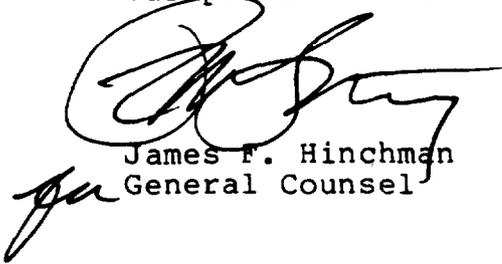
On reconsideration, Generic asserts that it telephonically confirmed with the Navy that it had received two pieces of correspondence from the protester, which it identifies as a signed acknowledgment of an amendment to the RFP and a copy of its protest. However, Generic's request does not indicate when or with whom this confirmation was made and does not make clear whether the Navy was aware of the contents of the correspondence. Generic orally identified an employee with whom it spoke, but has not furnished any supporting information to substantiate its contentions.

Upon receiving Generic's reconsideration request, we asked the Navy to recheck its records to ensure the accuracy of the agency's August 4, advice to our Office. The agency

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informally advises us that, according to its records, a copy of the protest was received on August 18--13 working days after the protest was filed in our Office. Further, the employee named by Generic denies confirming receipt of the protest. In the absence of any evidence to the contrary or that the Navy otherwise should have known the basis for Generic's complaint, the protest was properly dismissed. Discount Machinery & Equipment, Inc.--Request for Reconsideration, B-227885.2, Aug. 18, 1987, 87-2 CPD ¶ 176.

Our prior decision is affirmed.



James F. Hinchman
General Counsel