



The Comptroller General
of the United States

Washington, D.C. 20548

Blotch

Decision

Matter of: Sho-Ge, Inc.
File: B-234772
Date: March 24, 1989

DIGEST

Protest filed with General Accounting Office (GAO) more than 10 working days after protester received contracting officer's denial of its agency-level protest is dismissed as untimely. The fact that in the interim protester filed a protest with the Department of Agriculture Board of Contract Appeals, which dismissed it as not involving a matter within the Board's jurisdiction does not toll the time for filing with GAO.

DECISION

Sho-Ge, Inc., protests the cancellation of invitation for bids (IFB) No. R4-2-89-2, issued by the Forest Service, Department of Agriculture, for the construction of duplex housing units at the Boise National Forest, and the resolicitation of that requirement.

We dismiss the protest.

Sho-Ge, the apparent low bidder, received notice on January 20, 1989, that the Forest Service was not going to award a contract and that the requirement would be resolicited because all bids received were unreasonable and because Sho-Ge's low bid exceeded the government estimate by more than 15 percent. Sho-Ge protested the cancellation of the IFB to the Forest Service on January 23, and the contracting officer denied the protest by letter dated February 2.

On February 14, Sho-Ge requested the Department of Agriculture Board of Contract Appeals (AGBCA) to provide Sho-Ge with the procedures to file an appeal with the General Accounting Office. The AGBCA treated Sho-Ge's letter as an appeal to the Board, and dismissed the appeal for lack of jurisdiction on March 2. We received Sho-Ge's protest on March 10.

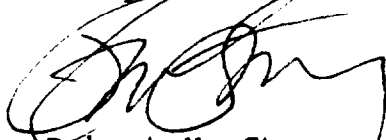
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Our Bid Protest Regulations provide that if a protest had been filed initially with the contracting agency, any subsequent protest here must be filed within 10 working days of actual or constructive knowledge of initial adverse agency action. 4 C.F.R. § 21.2(a) (1988). Thus, Sho-Ge should have filed its protest with this Office within 10 days of its receipt of the contracting officer's February 2 denial of the agency-level protest.

Sho-Ge was on constructive notice of the proper time and place for filing its protest with this Office because our Regulations are published in the Federal Register. Coastal Industries, Inc.--Reconsideration, B-223158.2, June 30, 1986, 86-2 CPD ¶ 20. Further, Sho-Ge's protest to the AGBCA does not toll the time of filing with us. Amertech Industries, Inc., B-229498, Nov. 9, 1987, 87-2 CPD ¶ 469. Accordingly, Sho-Ge's protest filed here on March 10, was untimely and will not be considered on the merits.

Sho-Ge argues that even if its protest is untimely, it should be considered under the significant issue exception to our timeliness rules. 4 C.F.R. § 21.2(b). We do not agree. In order to prevent the timeliness requirement from becoming meaningless, the significant issue exception is limited to considering untimely protests that raise issues of widespread interest to the procurement community and which have not been considered on the merits in a previous decision. System Automation Corp., B-224166, Oct. 29, 1986, 86-2 CPD ¶ 493. Here, the issue of whether the cancellation of an IFB was proper has been considered frequently by our Office, and is therefore not appropriate for consideration as a significant issue.

The protest is dismissed.



Robert M. Strong
Associate General Counsel