



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Mountain Technical Industries

File: B-235477

Date: May 17, 1989

DIGEST

Protest of the cancellation of a solicitation is untimely, as evidenced by General Accounting Office's (GAO) time/date stamp showing actual receipt, when filed with GAO more than 10 working days after denial of the firm's protest to the contracting agency.

DECISION

Mountain Technical Industries (MTI) protests the cancellation of request for proposals (RFP) No. F04699-88-R0072, issued by the Department of the Air Force, McClellan Air Force Base, California, for microfilm viewers. MTI argues that the Air Force acted in bad faith in canceling the RFP.

We dismiss the protest as untimely.

The RFP, issued May 11, 1988, was canceled on February 14, 1989, because the Air Force decided to replace microfilm equipment with digital data equipment. MTI protested that decision to the Air Force on February 28; the Air Force denied MTI's protest in a letter dated April 18, and received by the protester on April 21. MTI then filed a protest misaddressed to the "Claims Group" at the General Accounting Office (GAO) that was first received at GAO's Document Control section on May 10, 1989, at 12:13 p.m., as evidenced by a time/date stamp.

Under our Bid Protest Regulations, the term "filed" is defined as receipt of the protest in our Office. 4 C.F.R. § 21.0(g) (1988). Our time/date stamp is the only acceptable evidence of the time of receipt of materials relating to protests filed in our Office absent affirmative evidence to the contrary to show actual earlier receipt. EG&G Washington Analytical Services Center, Inc., B-231168, May 24, 1988, 88-1 CPD ¶ 494. Further, protests initially

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filed with the contracting agency must be filed in our Office within 10 working days of when the protester knows or should know of the initial adverse agency action on the protest. 4 C.F.R. § 21.2(a)(3).

Here, MTI knew of the Air Force's denial of its agency-level protest on April 21, 1989, and thus was required to file any subsequent protest to our Office by May 5, 10 working days later. Although MTI addressed its protest to the wrong GAO division, it was, nevertheless, first delivered to the GAO Document Control section, and time/date stamped May 10, 1989, at 12:13 p.m. Accordingly, since MTI did not file its protest in our Office until more than 10 working days following initial adverse agency action, we find the protest to be untimely.

The protest is dismissed.



Robert M. Strong
Associate General Counsel