

Gary



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Tenicon, Inc.
File: B-236170
Date: August 11, 1989

DIGEST

Protest of agency nonresponsibility determination filed more than 10 working days after protester received written notice of the basis for the protest is untimely.

DECISION

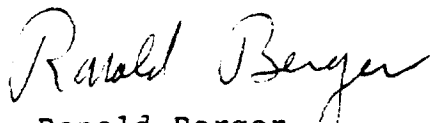
Tenicon, Inc., protests the award of a contract to Soltek of San Diego, under invitation for bids (IFB) No. N68711-89-B-1012, issued by the Department of the Navy for a command/control system laboratory at the Naval Ocean Systems Center in San Diego, California. Tenicon objects to the Navy's determination that it was nonresponsible based on the unacceptability of its individual sureties, and asserts that, as the apparent low bidder, it should have received the award. We dismiss the protest as untimely.

Our Bid Protest Regulations require that protests be filed not later than 10 working days after the basis of the protest is known or should have been known. 4 C.F.R. § 21.2(a)(2) (1988). The Navy has provided us with documentation indicating that the protester knew or should have known of the basis of the protest on June 5, 1989. Specifically, in a letter dated June 2, the Navy advised Tenicon that the valued net worths claimed by its proposed individual sureties was based on potential earnings over an extended period of time, and that the financial capability of the individuals was therefore too speculative. The Navy also stated that Tenicon had failed to provide all of the information pertaining to the proposed sureties that it had previously requested. (Although all of this information was due on May 26, Tenicon provided only part of it on May 30.) The letter advised Tenicon that it therefore had been found nonresponsible and would not be given further consideration for the contract. The Navy has provided us with a receipt for certified mail dated June 2, and a return receipt for the same item, signed by an agent of Tenicon, dated June 5.

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Thus, it is clear from the record that Tenicon was on notice on June 5 that it was being rejected as nonresponsible based on the unacceptability of its sureties. As the protest was not filed until July 13, more than 10 working days later, the protest is untimely and will not be considered.

The protest is dismissed.

A handwritten signature in cursive script that reads "Ronald Berger". The signature is written in dark ink and is positioned above the printed name and title.

Ronald Berger
Associate General Counsel