

J. Formica



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Tom Shaw, Inc.--Reconsideration

File: B-241614.2

Date: November 26, 1990

Thomas Shaw for the protester.
John Formica, Esq., and John Brosnan, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest filed with the General Accounting Office (GAO) more than 10 working days after protester knew of its basis for protest was properly dismissed as untimely. The fact that the protester first filed its protest with the Department of Transportation 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

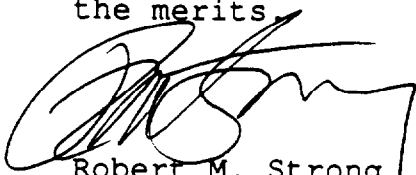
Tom Shaw, Inc. requests reconsideration of our dismissal of its protest against the cancellation of invitation for bids (IFB) No. DTCG80-89-B-00145, issued by the United States Coast Guard. We dismissed the protest because Shaw did not file it in a timely manner.

We deny the request for reconsideration.

The Coast Guard canceled the solicitation on August 2, 1989. Shaw received notification of this cancellation on August 8. After what the protester characterizes as "several unfruitful attempts to gather data" from the agency concerning the cancellation, Shaw protested the cancellation to the Department of Transportation Board of Contract Appeals on April 2, 1990. The Board dismissed Shaw's protest for lack of jurisdiction on June 29. Shaw then protested to our Office on August 6, and we summarily dismissed the protest as untimely because it was not filed within 10 working days of the date the basis for protest was first known or should have been known. Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1990).

In its request for reconsideration, Shaw argues that the pendency of its protest before the Board should toll the running of the 10 days allowed for filing a protest with our Office.

Even if considered under circumstances most favorable to the protester--that is, Shaw first became aware of its basis for protest April 2 when it filed its protest with the Board--the protest is untimely. Shaw's protest to the Board does not toll the time for filing with our Office. See Sho-Ge, Inc., B-234772, Mar. 24, 1989, 89-1 CPD ¶ 303. Thus, Shaw would have had to file its protest with this Office, at the latest, within 10 days of April 2. Accordingly, its protest filed here on August 6 was untimely and will not be considered on the merits.



Robert M. Strong
Associate General Counsel