



Comptroller General
of the United States

Washington, D.C. 20548

Katherine Riback

Decision

Matter of: HUB Cities, Inc.--Reconsideration

File: B-242517.2

Date: March 6, 1991

Jimmy Morgan for the protester.
Katherine I. Riback, Esq., and John F. Mitchell, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Letter to contracting agency expressing an intent to protest but which does not contain any specific basis for protest is not sufficient to constitute an agency-level protest, and a subsequent "formal protest" to the General Accounting Office filed more than 10 working days after the date the basis of protest was known, was properly dismissed as untimely.

DECISION

HUB Cities, Inc. requests that we reconsider our January 7, 1991, dismissal of its protest concerning the determination made by the Army Corps of Engineers that HUB Cities' bid was nonresponsive due to its failure to comply with bid guarantee requirements under invitation for bids (IFB) No. DACA47-91-B-0015, for a construction project at Kirtland Air Force Base, New Mexico. By letter dated and received on January 3, 1991, Hub Cities "formally protested" to our Office the rejection of its bid. Attached to Hub Cities' protest were prior letters it had addressed to the contracting agency on December 7 and 20, 1990. We dismissed the January 3 protest as untimely filed under our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1990), because the protest was filed more than 10 working days after the protester admittedly knew of its basis of protest, specifically November 30, when HUB Cities was orally notified of the rejection of its bid.

We affirm the dismissal.

On reconsideration, HUB Cities claims that a protest was in fact timely filed because after it was orally notified that its bid had been rejected on November 30 but before it filed

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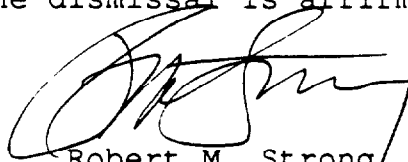
its protest with our Office, it sent the following protest letter dated December 7, 1990, to the agency:

"With respect to your correspondence dated November 30, 1990, please be advised that we are giving you formal notice of our intent to protest your decision declaring our bid on subject project nonresponsive."

HUB Cities' letter of December 7 is not sufficient to have constituted a protest. The letter merely announced an intent to protest and did not specify any specific protest grounds, and as such cannot be considered a protest. See BTS Broadcast Television Sys., Inc., B-239630, May 25, 1990, 90-1 CPD ¶ 503. Since HUB Cities was orally notified on November 30 concerning the agency's determination that its bid was nonresponsive, it was required to protest the nonresponsiveness determination within 10 working days of that date, or no later than December 14. 4 C.F.R. § 21.2(a)(2). As we stated in our dismissal, a protester's receipt of oral information forming the basis of its protest is sufficient to start the 10-day time period running; written notification is not required. Tribe Fleet, Inc.--Recon., B-239080.2, Apr. 16, 1990, 90-1 CPD ¶ 394.

Since we have concluded that HUB Cities' December 7 letter did not constitute a protest to the agency, its subsequent correspondence dated December 20, 1990, and January 3, 1991, to the contracting agency and to our Office, respectively, clearly is untimely.

The dismissal is affirmed.



Robert M. Strong
Associate General Counsel