



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Spectec Thunderbird International
Corporation--Reconsideration

File: B-242817.2

Date: April 2, 1991

Walter G. Wunsch for the protester.
Jacqueline Maeder, Esq., Paul Lieberman, Esq., and John F.
Mitchell, Esq., Office of the General Counsel, GAO, par-
ticipated in the preparation of the decision.

DIGEST

Dismissal of protest as untimely is affirmed where protester contends it was unaware of its protest option, since protester is charged with constructive knowledge of General Accounting Office (GAO) Bid Protest Regulations and where evidence of timeliness, available to the protester at the time the protest was filed, is first presented to GAO in reconsideration request.

DECISION

Spectec Thunderbird International Corporation requests reconsideration of our dismissal of its protest of an award of a contract to Airpax Corporation, under request for proposals (RFP) No. DAAE07-90-R-D210, issued by the Department of the Army.

We affirm the dismissal.

Spectec's protest was dismissed as untimely because the initial filings from the protester and from the agency indicated that Spectec had not filed its protest within 10 working days after it knew, or should have known, the basis for its protest, as required by our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1990). While Spectec was informed that its offer was rejected because it was not an approved source and that award was made to Airpax by letter dated January 4, 1991, Spectec did not protest to our Office until February 1. Because we assume, in the absence of evidence to the contrary, that correspondence is received 1 calendar week after mailing--here, January 11--the protest to our Office was untimely. See Signal Corp.--Recon., B-238507.2, Apr. 25, 1990, 90-1 CPD ¶ 424.

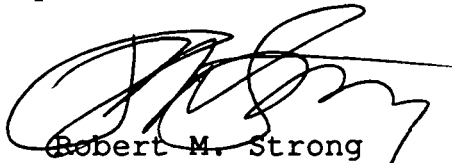
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In its reconsideration request, Spectec asserts that, in fact, it did not receive the award notification until "approximately" January 17, 1991, 10 working days before it protested to our Office. Spectec asserts that upon award notification, it "was not aware that a protest option was available . . ." and that it immediately contacted agency personnel to determine its options. The protester also asserts that consideration of its protest will not delay the procurement process since delivery under the contract is not required until January 1, 1992, and argues that the Army could realize a cost savings if it awarded the contract to Spectec.

Under our Regulations, a protester must submit a detailed statement of the factual and legal grounds upon which reversal or modification is deemed warranted, specifying any errors of law or information not previously considered. 4 C.F.R. § 21.12(a). Information not previously considered means information that was not available to the protester when the initial protest was filed. Signal Corp.--Recon., B-238507.2, supra. Any other interpretation of the rule would permit a protester to present information in a piecemeal fashion and unnecessarily disrupt the procurement of goods and services. Id. Consistent with this view, when a protest appears untimely on its face a protester which is in possession of facts that would establish its timeliness, but which does not initially provide these facts to our Office, runs the risk of dismissal and of our refusal to reconsider the matter when the protester subsequently presents these facts. Id.; Rudd Constr. Inc.--Recon., B-234936.3, July 28, 1989, 89-2 CPD ¶ 88.

The protest originally submitted to us appeared untimely based on the date of the agency's letter rejecting Spectec's offer and notifying Spectec of award to Airpax, and therefore was properly dismissed. Further, a protester's lack of actual knowledge of our Bid Protest Regulations is not a defense to dismissal of its protest for failure to file in a timely manner because prospective protesters are on constructive notice of our Regulations, since they are published in the Federal Register and Code of Federal Regulations. See Rocky Mountain Ventures-Recon., B-241870.4, Feb. 13, 1991, 91-1 CPD ¶ _____. Finally, an alleged potential cost savings does not provide a sufficient reason to abandon our timeliness requirements.

Our prior dismissal is affirmed.


Robert M. Strong
Associate General Counsel