

L. Glass
146663



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: DOCUnet Corporation--Reconsideration

File: B-247545.2

Date: May 12, 1992

Sam Zalman Gdanski, Esq., for the protester.
Linda C. Glass, Esq., and Michael R. Golden, Esq., Office of
the General Counsel, GAO, participated in the preparation of
the decision.

DIGEST

Dismissal of protest as untimely is affirmed where protest to the General Accounting Office was filed more than 10 working days after the protester knew the basis of its protest; filing of protest with General Services Administration Board of Contract Appeals that is subsequently dismissed does not toll the time for filing a protest with the General Accounting Office.

DECISION

DOCUnet Corporation requests reconsideration of our February 11, 1992, dismissal as untimely of its February 10, 1992, protest against the termination for convenience of its contract No. DTFA14-91-C-33272, issued by the Department of Transportation.

We affirm our decision.

DOCUnet, in its initial protest, stated that the agency awarded it a contract on December 16, 1991, to provide on-site, off-site word processing and data processing services for the Great Lakes Region. On December 30, Data Management Services, Inc. (DMS) filed a protest against the award with the General Services Administration Board of Contract Appeals (GSBCA). DMS subsequently withdrew its protest after the agency decided to terminate the award to DOCUnet. Data Mgt. Servs., Inc., GSBCA No. 11650-P, 1992 BPD ¶ 16. The protester stated that it received notification of the termination on January 11, 1992, and protested the termination with the GSBCA on January 19. DOCUnet claimed that the termination of its contract was

improper because it was "the low responsive, responsible bidder." On February 6, the agency filed a motion to dismiss, arguing that the GSBCA lacked jurisdiction because the procurement was not for automatic data processing equipment within the meaning of the Brooks Act, 40 U.S.C. § 759(a)(2)(A) (1988). The protester then requested the Board to dismiss its protest and subsequently filed a protest with our Office on February 10. On February 14, the GSBCA dismissed the protest without prejudice. DOCUnet Corp., GSBCA No. 11664-P, 1992 BPD ¶ 52.

We dismissed DOCUnet's February 10 protest as untimely because it was filed more than 10 days after the protester knew, or should have known, the basis for its protest. Our Bid Protest Regulations require that protests such as this one be filed no later than 10 working days after the basis of protest is known, or should have been known, whichever is earlier. 4 C.F.R. § 21.2(a)(2) (1992). DOCUnet received notification from the agency on January 11 that its contract was terminated; thus, the February 10 protest clearly was untimely.

In its reconsideration request, DOCUnet suggests that our timeliness rules should not apply because it had an appropriate basis--DMS's earlier protest and the Board's consequent familiarity with the facts--to file initially with the GSBCA.

Our timeliness rules are applicable regardless of any earlier protest filed with the Board--in other words, filing with the GSBCA does not toll the time for filing a protest with our Office. See Product Research, Inc.--Recon., B-237193.3, Jan. 8, 1990, 90-1 CPD ¶ 33. This is so even where it is determined that the GSBCA lacks jurisdiction to hear the protest. United Tel. Co. of the Northwest, B-246333, Dec. 18, 1991, 91-2 CPD ¶ 563; Amertech Indus., Inc., B-229498, Nov. 9, 1987, 87-2 CPD ¶ 469. Consequently, DOCUnet's protest filed on February 10, more than 10 working days after it became aware of its basis of protest, was untimely and was properly dismissed.


Ronald Berger
Associate General Counsel