

Morrow
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Comptroller General
of the United States
Washington, D.C. 20548

944284

Decision

Matter of: New Beginnings Treatment Center, Inc.--
Reconsideration

File: B-252517.2; B-252517.3

Date: April 29, 1993

John S. O'Dowd, Esq., and Pamela S. Henley for the
protester.
Charles W. Morrow, Esq., and James A. Spangenberg, Esq.,
Office of the General Counsel, GAO, participated in the
preparation of the decision.

DIGEST

1. Request for reconsideration of a General Accounting
Office dismissal of a protest as untimely is denied as
untimely where the protester failed to request reconsidera-
tion within 10 working days from its receipt of the
dismissal.

2. Where a protest was dismissed as untimely, a "new"
protest on the same basic grounds based upon additional
information discovered after the dismissal of the prior
protest, is also untimely.

DECISION

New Beginnings Treatment Center, Inc. requests reconsidera-
tion of our March 3, 1993, dismissal of its protest as
untimely. New Beginnings also files a "new" protest based
upon subsequently obtained evidence, which allegedly
substantiates its previously dismissed protest.

We deny the request for reconsideration and dismiss the
protest.

By letter dated February 9, New Beginnings protested the
award of a contract to Behavioral Systems Southwest under
request for proposals (RFP) No. 200-081-W by the Department
of Justice, Bureau of Prisons, for community treatment
center services in Tucson, Arizona. New Beginnings
contended, among other things, that the agency may have
misevaluated the RFP requirement that the contractor prove
that "local law enforcement and local government have been

advised of the contractor's intent to open a community corrections center," and that appropriate licenses had not been obtained by the awardee.

We dismissed the protest as untimely since it was not received in our Office within 10 working days from when New Beginnings knew of its basis of protest, as required by the Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1993). In this regard, while the protest letter states that the grounds of protest were known no later than February 9, when it was apparently mailed, the protest was not received by our Office until March 2 because it was misaddressed by the protester.

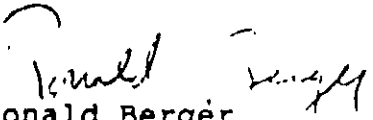
New Beginnings requests reconsideration on the basis that it was given the erroneous address by an unidentified individual who answered a phone number listed in a General Accounting Office (GAO) audit report for obtaining copies of audit reports and because GAO's address was not in the solicitation.

We deny New Beginnings's request for reconsideration because it also was filed in an untimely manner. Our Bid Protest Regulations contain strict rules requiring the timely submission of protests, comments, and requests for reconsideration; specifically, a request for reconsideration must be filed within 10 working days after the requesting party knows or should know the basis for reconsideration. 4 C.F.R. § 21.12(b); see MRL, Inc.--Recon., B-235673.4, Aug. 29, 1989, 89-2 CPD ¶ 188. Our records indicate that New Beginnings was sent a copy of our dismissal dated March 3 on March 9. For purposes of calculating timeliness, absent evidence to the contrary, we assume that mail is received within 1 calendar week from the date it is sent. See Insituform East, Inc., B-248954, Sept. 15, 1992, 92-2 CPD ¶ 181. Thus, we impute the protester's receipt of our dismissal to have occurred no later than March 16. New Beginnings's request for reconsideration was filed on April 1, which is more than 10 working days later. Therefore, we consider New Beginnings's request for reconsideration to be untimely filed.

As noted above, New Beginnings also has filed a new protest of the award. This protest is based upon a March 23 article in the Arizona Daily Star, which New Beginnings asserts is verification of the validity of its earlier dismissed protest that local officials did not receive notification of Behavioral's intent to open its correction center until March 12, well after award of the contract; that the community does not support the facility; and that Behavioral does not possess the appropriate license as required by the RFP.

Although New Beginnings may have obtained additional support for its initial protest from the March '23 article, the fact remains that the protest grounds being raised are essentially the same as those raised originally in its previous dismissed protest that was dismissed as untimely. An untimely protest cannot be made timely by virtue of the protester's later acquisition of additional information in support of the protest. Advanced Health Sys.--Recon., B-246793.2, Feb. 21, 1992, 92-1 CPD ¶ 214. Consequently, New Beginnings's new protest is also dismissed as untimely.

The request for reconsideration is denied, and the protest is dismissed.


Ronald Berger
Associate General Counsel