



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Oklahoma Electric Cooperative

File: B-257241

Date: May 11, 1994

DECISION

Oklahoma Electric Cooperative protests the rejection of its bid as nonresponsive, and the subsequent award of a contract by the Department of Justice, Bureau of Prisons, under request for proposals No. X00-0140.

We dismiss the protest as untimely because it was filed more than 10 working days after the protester initially received actual or constructive knowledge of adverse agency action on its agency-level protest.

Our Bid Protest Regulations contain strict rules requiring timely submission of protests. Where a protest initially has been filed with a contracting activity, any subsequent protest to our Office, to be considered timely, must be filed within 10 working days of "actual or constructive knowledge of initial adverse agency action." 4 C.F.R. § 21.2(a)(3) (1993). The term "adverse agency action" is defined in our Bid Protest Regulations as any action or inaction on the part of a contracting agency which is prejudicial to the position taken in a protest filed with the agency. 4 C.F.R. § 21.0(f).

Here, the protester states that its agency-level protest was denied by letter dated March 22, 1994. That denial was adverse agency action. In the absence of affirmative evidence to show that the agency sent the denial letter on a date other than that stamped on the letter, we will assume that the letter was actually sent on or about that date, and for timeliness purposes will assume receipt within 1 calendar week, in this case by April 5, 1994. Adrian Supply Co.--Recon., B-225472.3, Mar. 23, 1987, 97-1 CPD ¶ 328.

Since we therefore consider Oklahoma Electric Cooperative to have known of the adverse action by that date, its protest filed in our Office on May 6 is untimely.

The protest is dismissed.

A handwritten signature in black ink, appearing to read "John M. Melody". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

John M. Melody
Acting Associate General Counsel