

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

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FILE: B-181249

DATE: July 15, 1974

MATTER OF: Southern Packaging and Storage Co., Inc.

- DIGEST:
1. Clear intent of section 20.1 of GAO Bid Protest Procedures and Standards is to require that protester's initial indication of complaint to GAO be filed both in writing and within stated time limits. Therefore, "oral" filing of protest did not constitute filing within terms of regulation.
 2. Since "Issues significant to procurement practices or procedures," 4 CFR 20.2(b), refer to presence of principle of widespread interest, GAO does not view questions relating to sufficiency of the amendment of subject IFB as coming within that standard.

On June 7, 1974, our Office issued a decision (B-181249) which held that Southern's protest to GAO regarding an amendment to request for proposals DSA-13H-74-R-4759 was untimely under section 20.2(a) of our Bid Protest Procedures and Standards, 4 CFR 20, et seq. The basis of our decision was that Southern became aware of the contents of the amendment to the Defense Supply Agency's (DSA) procurement on April 26, 1974, and brought its complaint to DSA's attention; yet, no action was taken by DSA as of May 3, 1974, the closing date for receipt of proposals and Southern's protest was not received at GAO until May 15, 1974.

Southern now contends that a "* * * timely telephonic protest was made * * * on May 9, 1974," both to the contracting officer and to our Associate General Counsel for Procurement Law.

With regard to the "filing" with the contracting officer, as noted in our June 7 decision, we construed Southern's conversations during the period beyond April 26, 1974, but prior to May 3, 1974, as a protest to the agency (in accordance with

Armed Services Procurement Regulation (ASPR) 2-407.8(a)), with adverse agency action occurring thereafter on May 3, 1974. Southern does not contend that this view is inappropriate or that the 5-working-day period for timely filing at GAO did not begin on May 3, 1974. Therefore, since "* * * a protester * * * [must] file its protest with our Office within 5 days of notification of initial adverse agency action, if it is to be considered timely," 52 Comp. Gen. 20, 23 (1972), any filing with the contracting officer in this instance subsequent to the adverse action of May 3, 1974, would have no impact on the timeliness of a protest at GAO. 52 Comp. Gen., supra.

With regard to an "oral" filing of a protest at GAO, section 20.1 of our bid protest procedures states that:

"An interested party wishing to protest the proposed award of a contract, or the award of a contract, by or for an agency of the Federal Government * * * may do so by a telegram or letter to the General Counsel, General Accounting Office, Washington, D.C. 20548."

Southern argues that this provision does not, however, preclude an oral protest (such as is allowed under the above-cited ASPR provision).

However, section 20.1 goes on to state that "A copy of the protest shall also be filed concurrently with the contracting officer * * *."

These provisions read together, clearly require that the initial indication of a complaint to GAO be filed both in writing and within the time limit established.

Accordingly, we see no basis to conclude that Southern had filed a protest, within the terms of our regulations, at any time prior to May 15, 1974, and that such a filing was untimely.

Southern alleges, in the alternative, that its protest raises issues significant to procurement practices or procedures. While section 20.2(b) of our bid protest procedures does allow our Office to consider a protest containing such

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issues even where the protest is untimely, we do not feel that the issues here presented rise to the required level. Since "Issues significant to procurement practices or procedures" refer to the presence of a principle of widespread interest, 52 Comp. Gen., supra, we do not think that the sufficiency of the amendment of this RFP comes within that standard.

Our earlier decision is thus affirmed.


Deputy Comptroller General
of the United States