

DECISION



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

FILE: B-219312.6 **DATE:** February 3, 1986
MATTER OF: Bruce Rahmani--Reconsideration

DIGEST:

1. Prior decision, affirming the dismissal of an untimely request for reconsideration, is affirmed where protester fails to show that the decision (or the dismissal) was based on any errors of fact or law.
2. A request for reconsideration of a dismissal of a protest, filed (received) at GAO more than 10 working days after the protester received the protest dismissal notice, is untimely under GAO Bid Protest Regulations and will not be considered.
3. In the absence of affirmative evidence to show actual earlier receipt, GAO's time/date stamp is accepted as evidence of the time of receipt of materials relating to protests at GAO.
4. A protester makes use of the mail service at its own risk and a delay or loss in the mails does not serve as a basis for considering untimely filed materials.

Bruce Rahmani (Rahmani) requests reconsideration of our decision in the matter of Bruce Rahmani--Reconsideration, B-219312.5, Jan. 9, 1986, 86-1 C.P.D. ¶ ____.

We affirm our prior decision.

In that decision, we affirmed the dismissal of Rahmani's December 2, 1985, request for reconsideration of our November 22, 1985, dismissal of its protest. Rahmani's first request for reconsideration was untimely filed with GAO on December 18, more than 10 working days after November 29, 1985, when Rahmani stated it received our dismissal of its initial protest. 4 C.F.R. § 21.12(b) (1985); A & B Construction and Maintenance--Reconsideration, B-219166.4, Aug. 30, 1985, 85-2 C.P.D. ¶ 254.

Rahmani argues that, although its first reconsideration request was time/date stamped (filed) in GAO on December 18, it was "properly mailed" on December 2, 1985, and, therefore, the failure of GAO to timely receive the request (by December 13, 1986) must be attributable to the government's negligence--possibly mishandling or misdirection at GAO.

GAO's Bid Protest Regulations require requests for reconsideration of GAO decisions to be filed not later than 10 working days after the basis for reconsideration is known or should have been known, whichever is earlier. The term "filed" means receipt in GAO. 4 C.F.R. § 21.12(b) (1985). The time/date stamp is accepted as evidence of the time of receipt of materials relating to protests at GAO absent affirmative evidence to the contrary to show actual earlier receipt. Ray Allen Manufacturing Co., Inc., B-208853, Sept. 21, 1982, 82-2 C.P.D. ¶ 255.

Although Rahmani contends that the late time/date stamp on its first request for reconsideration must be due to mishandling by GAO, Rahmani has not offered any evidence to show that the request for reconsideration was received timely. See Ray Allen Manufacturing Co., Inc., B-208853, supra. Moreover, to the extent that Rahmani contends that the delay in receipt was due to the mail service, a protester makes use of the mails at its own risk and a delay in the mails does not serve as a basis for considering untimely filed materials. Argus Services, Inc., B-213689, Mar. 19, 1984, 84-1 C.P.D. ¶ 325.

Since Rahmani has not shown any error of fact or law in our January 9, 1986, decision, it is affirmed. See Emerson Electric Co.--Reconsideration, B-220517.2, Nov. 26, 1985, 85-2 C.P.D. ¶ 607.

for *Seymour S. Spos*
Harry R. Van Cleve
General Counsel