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

91-1 CPD 610

Decision

PR

Matter of: Comspace Corporation

File: B-243166.2

Date: June 27, 1991

I. Becker for the protester.
Edwin Rodriguez, and John Van Schaik, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest repeatedly misdirected to incorrect telefax (fax) number will not be considered since General Accounting Office (GAO) did not timely receive the protest within 10 working days after the basis of protest was known or should have been known. Protester relying on fax equipment to file a protest bears the risk of untimely receipt of protest by GAO.

DECISION

Comspace Corporation protests the award of a contract to another firm under request for proposals No. DLA900-90-R-6396, issued by Defense Logistics Agency.

The protest is dismissed as untimely.

On June 3, 1991, we received a telefax (fax) from Comspace informing us that Comspace had been unable to obtain an acknowledgment of a protest it had attempted to file with our Office on April 1. Attached to the June 3 letter were copies of prior faxs, including a protest dated April 1, and two subsequent attempts to have the April 1 protest acknowledged by our Office. All the faxs except the June 3 transmission were sent to the incorrect number. We, therefore, did not actually receive the protest until June 3.

Our Bid Protest Regulations require that protests "be filed not later than 10 days after the basis of protest is known or should have been known, whichever is earlier." 4 C.F.R. § 21.2(a)(2). The term "filed" means "receipt of the protest . . . in the General Accounting Office." 4 C.F.R. § 21.0(g). When using fax equipment, a protester assumes the risk that the protest will not be received at our Office within the

10-day timeliness period. Danville-Findorff, Inc.--Recon., B-242934.2, Mar. 21, 1991, 91-1 CPD ¶ 313.

According to Comspace's correspondence, it was on notice of the grounds of its protest on March 29. In sending the April 1 protest by fax, the protester took the risk that it would not be received on time. Because we did not actually receive it until June 3, more than 10 days after the protester knew the basis of the protest, the protest is untimely and will not be considered.

The protest is dismissed.

John Brosnan
Assistant General Counsel