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Comptroller General
of the United States

Washington, D.C. 20548

112961

Decision

Matter of: Chemwest, Inc.

File: B-259064

Date: January 6, 1995

DECISION

Chemwest, Inc. protests the rejection of its proposal as late by the Department of the Navy under request for proposals (RFP) No. N00123-94-R-0455.

We dismiss the protest as untimely because it was filed more than 10 days after the protester knew, or should have known, of the basis for its protest.[1]

On June 21, 1994, the Navy issued the RFP to procure Secondary Containment Treatment Tanks for the Navy's Fleet and Industrial Supply Center Detachment in Long Beach, California. When the September 16 closing date passed without receipt of any offers, the Navy contacted several potential offerors, including Chemwest, to again request that they submit a proposal. Although Chemwest decided to submit a proposal in response to the reopened competition, there is no dispute that it missed the deadline by approximately 1 hour.

At a date no later than October 5, the Navy advised Chemwest that its late proposal would not be accepted. Although the Navy and Chemwest disagree about whether Chemwest was notified on October 4 or 5, resolution of this disagreement is not necessary for our conclusion that the protest was untimely. Even if we assume that Chemwest's version of events is correct, its protest was not filed until more than 10 days after the date Chemwest learned of its basis for protest.

Our Bid Protest Regulations contain strict rules requiring timely submission of protests. Under these rules, protests not based upon alleged improprieties in a solicitation must be filed no later than 10 working days after the protester knew, or should have known, of the basis for protest,

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[1]Chemwest's supplemental protest, B-259064.2, filed within 10 days of its receipt of the agency report here, is not included as part of this dismissal decision.

whichever is earlier. 4 C.F.R. § 21.2(a)(2) (1994). In addition, our Regulations advise that the "[t]ime for filing any document or copy thereof with the General Accounting Office expires at 5:30 p.m., Eastern Standard Time or Eastern Daylight Savings Time as applicable on the last day on which such filing may be made." 4 C.F.R. § 21.0(e) (emphasis added); East West Research, Inc.--Recon., B-238039.2, Feb. 27, 1990, 90-1 CPD ¶ 243.

Here, Chemwest claims that on October 5, it was advised by the Navy's contract negotiator that the proposal would not be considered. As a result, Chemwest was required to file its protest within 10 days of that date, or by October 20. Our review shows that Chemwest filed its protest by facsimile transmission at 5:50 p.m Eastern Standard Time on October 20.[2] Since the filing was made after business hours on October 20--and thus was date/stamped as received the next morning, October 21, at 8:30 a.m.--it cannot be considered as filed within 10 days of the date Chemwest claims it knew of its basis for protest. See also Computer One, Inc.--Recon., B-249352.7, Sept. 27, 1993, 93-2 CPD ¶ 185.

The protest is dismissed.

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Assistant General Counsel

[2]The protester's facsimile shows that the protest was transmitted from Irvine, California, on October 20, and arrived in our Office at 2:50 p.m., Pacific Time. Converted to Eastern Standard Time, the protest arrived at 5:50 p.m.