



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Stones River Electric, Inc.

File: B-270473

Date: November 24, 1995

DECISION

Stones River Electric, Inc. protests the rejection of its bid as nonresponsive by the Department of the Navy under invitation for bids No. N62467-95-B-5037.

Stones submitted a bid in the name of Stones River Electric, Inc.; its bid bond, however, was in the name of Stones River Utilities, Inc. The Navy rejected the bid as nonresponsive. Stones asserts that the rejection was improper because it and Stones River Utilities are the same entity and that the bond was therefore enforceable.

We dismiss the protest as untimely because it was filed more than 14 calendar days after the protester initially received actual or constructive knowledge of adverse agency action on its protest. Stones filed an agency-level protest on October 13, 1995. The agency denied Stones's protest on October 19, which Stone learned of on October 23. The instant protest was not filed in our Office until November 7, more than 14 days later.

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 14 calendar days of "actual or constructive knowledge of initial adverse agency action." Section 21.2(a)(3), 60 Fed. Reg. 40,737, 40,740 (Aug. 10, 1995) (to be codified at 4 C.F.R. § 21.2(a)(3)). 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. Section 21.0(f), 60 Fed. Reg. *supra* (to be codified at 4 C.F.R. § 21.0(f)); Consolidated Indus. Skills Corp., B-231669.2, July 15, 1988, 88-2 CPD ¶ 58.

In response to the agency's motion for summary dismissal of the protest as untimely filed, Stones argues that it was not until October 27 that it received the information from the agency on how to file a protest and that its protest filed on November 7 is therefore timely. However, under the law, a protester is presumed to know the provisions of our Bid Protest Regulations since they are published in

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the Federal Register and Code of Federal Regulations and protesters therefore are charged with constructive notice of their contents. See Domation, Inc., B-228221, Sept. 28, 1987, 87-2 CPD ¶ 311. Accordingly, a lack of actual knowledge of our filing requirements does not toll our timeliness rules.

The protest is dismissed.

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