

DECISION

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

Golden
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B-218214.3

FILE:

DATE: May 31, 1985

Bobnreen Consultants, Inc.

MATTER OF:**DIGEST:**

Protest filed with GAO more than 10 working days after the protester receives notice of initial adverse agency action by contracting agency-- refusal to award protester contract and decision to continue with second round of best and final offers--is untimely and will not be considered on the merits. Protester's continued pursuit of protest with contracting agency does not alter this result.

Bobnreen Consultants, Inc. (BCI), protests the Department of the Air Force decision to amend request for proposals (RFP) No. FO4606-84-R-0237 and request a second round of best and final offers. BCI alleges that it was in line for award after the submission of initial best and final offers and BCI protests the Air Force's subsequent actions and refusal to award it the contract.

We dismiss the protest as untimely.

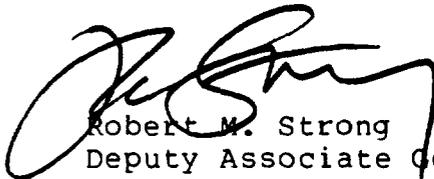
On March 25, 1985, the Air Force issued amendment No. 4 which revised the RFP and established a new closing date of April 12, 1985, for receipt of best and final offers. According to the Air Force correspondence submitted by the protester, the amendment more clearly defined the work to be performed, changed personnel requirements and revised the amount of work. In a letter to the Air Force dated March 28, 1985, BCI protested the need for the amendment. BCI asserted that the revisions to the scope of work were not significant and requested that BCI promptly be awarded the contract. By letter of April 5, 1985, the Air Force rejected BCI's contention that the amendment changes were insignificant and advised BCI that, in order to be considered for award, it must revise its offer to reflect the amendment revisions. BCI's correspondence indicates that it received the Air Force's response by April 8, 1985. The

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record indicates that BCI continued to object by letter to the Air Force to the amendment and the Air Force's refusal to award it a contract on the basis of its original offer. On May 24, 1985, BCI filed a protest with our Office.

Where a protest has been filed initially with the contracting agency, any subsequent protest to our Office must be filed within 10 working days of actual or constructive knowledge of initial adverse agency action on the protest. Bid Protest Regulations, 4 C.F.R. § 21.2(a)(3) (1985). BCI's failure to protest to our Office within 10 working days of learning (by April 8, 1985) of the Air Force's April 5, 1985, denial of BCI's initial protest renders untimely the subsequent protest to our Office.

The fact that BCI continued to pursue the matter with the Air Force did not alter the requirement that a subsequent protest to our Office was required to be filed within 10 working days of actual or constructive notice of initial adverse agency action. See Haskell Corporation, B-218200, Mar. 6, 1985, 85-1 C.P.D. ¶ 283.



Robert M. Strong
Deputy Associate General Counsel