

DECISION

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

25402

FILE: B-211677

DATE: June 7, 1983

MATTER OF: Martin Machinery Company

DIGEST:

1. Protest that bid rejected as nonresponsive should have been considered responsive because there was not adequate time to obtain a complete bid set and submit it by bid opening time is dismissed as untimely when protest is received after bid opening and more than 10 days after receipt of written notice of rejection from contracting officer.
2. Bid Protest Procedures are published in Federal Register and protesters are charged with constructive knowledge of their contents.

Martin Machinery Company (Martin) protests the rejection of its bid as nonresponsive under Naval Weapons Center invitation for bids (IFB) No. N60530-83-B-0123.

The bid was rejected as nonresponsive because Martin did not submit a complete bid set and state that it would comply with all the terms and conditions of the IFB. Martin protests that its bid should have been considered responsive because there was not sufficient time to obtain a complete bid set and submit it by the bid opening time.

We dismiss the protest.

Under our Bid Protest Procedures, a protest that there was inadequate time to prepare an offer must be filed prior to the time set for the receipt of offers. 4 C.F.R. § 21.2(b)(1) (1983); Unicare, Inc., B-181982, September 4, 1974, 74-2 CPD 146. Protests against other than improprieties in solicitations must be filed within 10 working days after the basis for protest is known. 4 C.F.R. § 21.2(b)(2) (1983). The 10-day period begins when the protester receives a letter from the contracting officer advising that the offer is rejected and the reason for the rejection. G.B.J. Inc., B-211124, April 4, 1983, 83-1 CPD 353.

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Martin indicates that the bid opening was February 7, 1983, and that it received written notice from the contracting officer stating the reason for rejection of its bid on April 14, 1983. Since the protest was not received in our Office until May 5, 1983, it is untimely under the Bid Protest Procedures.

Further, while Martin may not have had actual knowledge of our timeliness rules until the office of a United States Senator delivered a copy of them to Martin on April 29, 1983, our Bid Protest Procedures are published in the Federal Register and protesters are charged with constructive notice of their contents. Peter A. Tomaino, Inc.-- Request for Reconsideration, B-208167.2 , January 10, 1983, 83-1 CPD 19.

Consequently, Martin's protest will not be considered on the merits.

Ju *J. H. Barclay, Jr.*
Harry R. Van Cleve
Acting General Counsel