



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

Decision

Matter of: Futura Systems Inc.
File: B-245173
Date: November 7, 1991

Patricia A. O'Hearn for the protester.
Darleen Druyun, National Aeronautics and Space Administration, for the agency.
Katherine I. Riback, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest filed with General Accounting Office more than 10 working days after the protester should have been on notice of the basis of its protest from a written notification of award is dismissed as untimely.

DECISION

Futura Systems Inc. protests the award of a contract to University Systems, Inc. under invitation for bids (IFB) No. 3-444385, issued by the National Aeronautics and Space Administration (NASA) for INTEL-80486 based workstations. Futura contends that its low bid was improperly rejected as nonresponsive.

We dismiss the protest as untimely filed.

The IFB was issued on March 27, 1991, with an opening date of May 17. At the bid opening 73 bids were received. Futura's bid was rejected because the agency concluded that literature submitted with the bid made it nonresponsive. By letter dated July 12, the agency notified Futura that award had been made to University Systems, Inc. The notice further stated that although Futura's bid was lower than the awardee's bid, its bid was rejected due to its failure to meet several IFB specifications. Also, the contracting officer states that she discussed the technical evaluation of Futura's bid with a company official in a telephone conversation on July 24. As a result of this conversation, on July 26, the contracting officer sent via facsimile transmission a copy of the technical evaluation of Futura's bid. Futura filed a protest in our Office on August 12.

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, whichever is earlier, 4 C.F.R. § 21.2(a)(2) (1991); Health Research Assocs., Inc., B-237075.2, June 8, 1990, 90-1 CPD ¶ 541. We think that Futura should have been aware that NASA rejected its bid because the agency concluded that the bid failed to meet several IFB requirements and that the award was made to another firm at a higher price, when it received the July 12 letter.¹ While Futura received further information regarding the evaluation of its bid on July 26, it is not evident that any additional information was needed in order to file the protest. In any event, Futura's protest was filed more than 10 working days after receipt of both the letter and the additional technical material and is thus untimely.²

The protest is dismissed.



John Brosnan
Assistant General Counsel

¹For purposes of timeliness, we generally assume delivery of a letter within 1 calendar week from its mailing. See Signal Corp.--Recon., B-238507.2, Apr. 25, 1990, 90-1 CPD ¶ 424.

²Futura also contends that it delayed filing its protest until it received "confirmation" from the agency on August 8, that it was the low bidder. It was already informed by the agency's July 12 letter that its price was lower than that of the awardee. Since Futura had sufficient notice that it was the low bidder, it could not delay filing its protest until receipt of information further confirming this fact. Rapides Regional Medical Center--Recon., B-242601.2, June 28, 1991, 91-1 CPD ¶ 614.