

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
CONTRACT APPEALS BOARD

PROTEST OF:

SOUTHERN INTERNATIONAL CORPORATION :  
Under IFB No. 6404-AA-89-0-6-HT :

SUMMARY OF DECISION

1. A protest filed with the Board more than ten working days after the protester knew or should have known of the facts and circumstances upon which the protest is based is untimely and, therefore, will not be considered.

2. The Minority Business Opportunity Commission has conclusive authority under D.C. law to determine matters of minority business enterprise certification for District government procurement purposes. The Board, therefore, does not have jurisdiction to consider MBOC certification protests.

DECISION

Southern International Corporation (SIC) protests the Department of Administrative Services' decision not to award it the contract under IFB No. 6404-AA-89-0-6-HT for milk, cream and related items. SIC appears to argue that the Department disqualified its bid because the Minority Business Opportunity Commission (MBOC) improperly determined that it was not certified as a minority business enterprise to receive a contract award for the procurement.

According to SIC's protest letter dated July 24, 1986, SIC bases its claim on the MBOC's letter dated June 26, 1986. SIC's protest letter was addressed to the Department. The Department forwarded the protest letter to the Board by letter dated August 20, 1986, and the Board received the Department's letter on August 27, 1986.

D.C. Law 6-85, §908(b) (effective February 21, 1986), D.C. Code 1981, §1-1189.8(b) (1986 Supp.) states:

For a protest pursuant to subsection (a) of this section, the aggrieved person shall file a protest with the Board within 10 working days after the aggrieved person knew or should have known of the facts and circumstances upon which the protest is based. (Emphasis added.)

The filing requirements of §1-1189.8(b) are reflected in the Board's rules governing protest procedures. See CAB Proposed Rule 300.4. In this protest, SIC did not transmit its protest prior to July 24, 1986 (the date of its protest letter). SIC's protest letter indicates that it knew of the basis for its protest as a result of the statements made in the MBOC's letter of June 26, 1986. In this connection, it is noted that the Board's records do not reflect when SIC received the MBOC's letter. In any event, the Board thinks it reasonable to allow seven (7) calendar days for the receipt of the letter under the circumstances. The Board did not receive SIC's protest until August 27, 1986.

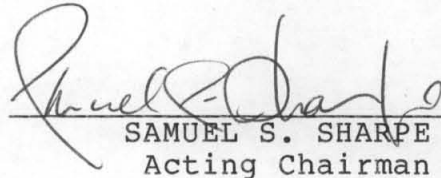
Accordingly, it appearing that SIC's protest was not received by the Board until more than ten (10) days after it knew or should have known of the facts and circumstances upon which the protest is based, the protest is dismissed as untimely.

Even if the Board were to have concluded that SIC had timely filed its protest, it appears from the face of the protest letter that SIC has not raised a protest cognizable by this Board. To the extent that SIC is challenging the MBOC's determination that it is not a certified minority business enterprise (MBE) for the

procurement in question, the MBOC has conclusive authority under D.C. Law 1-95, as amended, D.C. Code 1981, §1-1141, et seq. to determine matters of MBE certification for District government procurement purposes. The Board, therefore, does not have jurisdiction to consider MBOC certification protests.

For the foregoing reasons, the protest is dismissed.

February 27, 1987  
DATE

  
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SAMUEL S. SHARPE  
Acting Chairman

cc: Jose M. Abraham, Vice  
President, SIC  
Lorraine A. Green, Acting  
Director, DAS  
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