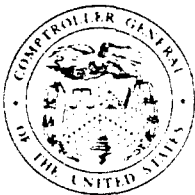


DECISION



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

60189

FILE: B-185126

DATE: November 19, 1975

MATTER OF: Twyco, Inc.

97709

DIGEST: Protest filed more than 10 working days after initial adverse agency action (notice that award was made to another bidder) is untimely under section 20.2(a) of GAO Bid Protest Procedures, 40 Fed. Reg. 17979 (1975), which requires that protests be filed within 10 working days after notification of adverse agency action.

This is a protest against award of a contract to Valad Electric Manufacturing Company on August 6, 1975, under invitation for bids (IFB) No. DSA700-75-B-2428, issued by the Defense Supply Agency (DSA), Defense Construction Supply Center (DCSC), Columbus, Ohio. Twyco, Inc., contends that DSA improperly waived first article testing for Valad and improperly failed to waive such requirement for it.

By letter dated August 6, 1975, Twyco received information from DSA that it was not low after consideration of all evaluation factors. Twyco protested this determination to DSA by letter dated August 11, 1975. DSA replied to Twyco by letter dated August 26, 1975, denying its protest. While it is not clear when Twyco actually received the letter denying its protest, it is clear that it was received by September 24, 1975. In a letter dated September 24, 1975, to DCSC, Twyco refers to the DSA letter of August 26. Twyco's protest was received in our Office on October 14, 1975, more than 10 working days after notification of initial adverse agency action.

Section 20.2(a) of our Bid Protest Procedures, 40 Fed. Reg. 17979 (1975), provides in part that "If a protest has been filed initially with the contracting agency, any subsequent protest to the General Accounting Office filed within 10 days of formal notification * * * of initial adverse agency action will be considered * * *." Since the protest was filed in our Office more than 10 working days after Twyco received notification of initial adverse agency action, it is untimely and will not be considered on its merits.

Milton A. Dembling
for Paul G. Dembling
General Counsel