

**DECISION**



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

FILE: B-186819

DATE: July 28, 1976

MATTER OF: Velcon Filters Inc.

**DIGEST:**

Protest against award of contract filed more than 10 working days after notification of adverse agency action is untimely and will not be considered on its merits.

Velcon Filters Inc. (Velcon) protests the rejection of its bid under invitation for bids (IFB) No. NASO-6-35340, issued by the National Oceanic and Atmospheric Administration (NOAA), United States Department of Commerce.

The IFB solicited bids to furnish two Oil/Water Separator Systems. Bids were opened on April 21, 1976, and award was made on April 29. By letter dated April 29 Velcon was notified that its bid had been rejected because of its failure to meet the solicitation's specifications. Velcon then filed a protest with NOAA, which was denied by the contracting officer by letter dated May 25. The final paragraph of that letter provided as follows:

"This notice constitutes a determination by the Contracting Officer made in accordance with FPR 1-2.407-8 and shall be final and conclusive, unless a written Notice of Appeal addressed to the Secretary of Commerce or the General Accounting Office (GAO) is mailed or otherwise furnished to the Contracting Office or GAO within 30 days from the date of this notice."

Velcon's protest to GAO was filed in this Office on June 25.

Section 20.2(a) of our Bid Protest Procedures, 40 Fed. Reg. 17979 (1975), provides in part:

"\* \* \* 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 \* \* \*."

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Velcon was formally notified of the initial adverse agency action upon receipt of the May 25 letter from the contracting officer. We have been advised by Velcon that it received that letter 4 or 5 days after May 25. Accordingly, Velcon's protest to GAO, filed June 25, is untimely and will not be considered on its merits.

In regard to the above, we recognize that Velcon was advised by the contracting officer in the May 25 letter that it had 30 days to protest to GAO. However, our Bid Protest Procedures are published in the Federal Register and Velcon was, therefore, on constructive notice of their contents, including the time limits set for filing protests. Twycroft, Inc.--Request for reconsideration, B-185126, December 23, 1975, 75-2 CPD 408; Save Our Aerospace Program, Inc.--request for reconsideration, B-184922, November 12, 1975, 75-2 CPD 299. Furthermore, we note that the contracting officer's letter refers to section 1-2.407-8 of the Federal Procurement Regulations, which specifically directs bidders to our Procedures by providing in part:

"\* \* \* An interested party wishing to protest to the Comptroller General of the United States against an award of a contract should do so in accordance with General Accounting Office Regulations (4 CFR Part 20)."

*Milton Fowler*  
for Paul G. Dembling  
General Counsel