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## DECISION



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

FILE: B-186995

DATE: October 6, 1976

MATTER OF: Florida Filters, Inc.

### DIGEST:

Protest filed at GAO more than 10 working days after receipt of adverse agency action regarding protest initially filed with procuring agency is untimely under bid protest procedures, 4 C.F.R. § 20.2(a) (1976) and will not be considered on the merits.

Florida Filters, Inc. (Florida) protests the acceptance by the Veterans Administration (VA) of the low bid for purchase order 14206, issued by the VA Hospital in Tampa, Florida, for dust-collection equipment to be used in its woodworking shop. Florida contends that the equipment offered by the low offeror and accepted by the Government was nonresponsive to the VA's specifications. For the following reasons we find Florida's protest to be untimely filed with this Office.

Where a protest is initially filed with the procuring agency, our Bid Protest Procedures require any subsequent protest to this Office to be filed here within 10 working days after the protest has received actual or constructive knowledge of the initial adverse agency action. Also, the initial protest to the agency must be timely filed. 4 C.F.R. 20.2(a) (1976).

Florida protested the contract award by a letter to VA dated July 12, 1976. (The record before us does not indicate whether this protest was timely filed with VA.) By letter of July 20, 1976, received by Florida on July 21, 1976, the contracting officer advised the protester that the award was considered proper because:

"\* \* \* the equipment being provided will meet the needs of the Government in essentially the same manner as that listed in the specification \* \* \*."

The protester also was advised that the denial of its protest could be appealed to the Director, Supply Service, Veterans Administration Central Office, or to the Comptroller General of the United States in accordance with General Accounting Office Regulations (4 C.F.R. Part 20). On August 3, 1976, Florida appealed the determination to

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the Director, Supply Service and an information copy was received in this Office on August 11, 1976. By letter of August 31, 1976, received here on September 3, 1976, Florida protested to this Office.

We have held that if a protest is initially filed with the procuring agency, the protester may not continue to appeal to the agency and remain timely in a protest to this Office filed here more than 10 days after the initial agency rejection. 52 Comp. Gen. 20, 22 (1972). Inasmuch as Florida did not file a protest in this Office within 10 days after it received the contracting officer's denial, we find its protest to this Office to be untimely filed.

Accordingly, the protest is dismissed.

*Milton Fowler*  
for Paul G. Dembling  
General Counsel