

4480

04216

M. H. White
Page 2

DECISION



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

FILE: R-190468

DATE: November 17, 1977

MATTER OF: National Flooring Company

DIGEST:

Protest filed with GAO more than 10 working days after protester had actual knowledge that its initial protest filed with activity was denied is untimely filed with GAO and is, therefore, not for consideration.

National Flooring Company (National) protests the allowance, by the Department of the Army (Army), of a revision in Allstate Flooring Company's (Allstate) bid and subsequent award of a contract to Allstate under invitation for bids No. DAAD01-77-B-0062.

National's protest, originally filed with the contracting activity on September 23, 1977, was denied by the contracting officer on September 27, 1977. As a result, National sent a mailgram, dated September 27, 1977, to the contracting activity stating that National "find[s] it necessary to continue [its] protest * * *." The contracting officer, by letter dated October 3, 1977, affirmed his previous denial. Then, National filed a protest with our Office.

Our Bid Protest Procedures provide in part that:

"If a protest has been filed initially with the contracting agency, any subsequent protest to the General Accounting Office [must be] filed within 10 days of * * * actual or constructive knowledge of initial adverse agency action * * *." 4 C.F.R. § 20.2(a) (1976).

The fact that the protester may again appeal the matter to the contracting activity does not affect the above-cited time requirement with regard to when the 10 days begin to run. Florida Filters, Inc., B-136095, October 6, 1976, 76-2 CPD 316. National had actual knowledge of the initial adverse agency action on September 27, 1977. The protest filed with our Office on October 19, 1977, was filed more than

B-190468

10 working days after National had actual knowledge of the initial adverse agency action, and it is, consequently, untimely and not for consideration on the merits.

Paul C. Dembling
Paul C. Dembling
General Counsel