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DECISION



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

FILE: B-190351

DATE: November 21, 1977

MATTER OF: Pennwalt Corporation

DIGEST:

1. Protest is untimely and not for consideration on merits when basis for protest, rejection of bid, was known more than 10 days prior to protest filed on October 6, 1977.
2. Protester is charged with constructive notice of Bid Protest Procedures because procedures are published in Federal Register.

Pennwalt Corporation (Pennwalt) has protested the rejection of its bid and award of a contract for paint stripper under solicitation No. 10PN-ZJD-0446, issued by the General Services Administration (GSA).

Pennwalt's protest, filed with our Office on October 6, 1977, sets forth Pennwalt's claim that its bid was improperly rejected because the evaluation of its product was not based upon the salient features contained in the solicitation.

GSA has advised us that on or about September 2, 1977, its testing laboratory (Rock Island) discussed Pennwalt's bid with Pennwalt and advised Pennwalt that its bid would not be considered. However, Pennwalt has advised us that it learned of the rejection of its bid and the subsequent award of a contract to Valdes & Dobrey, Inc., on September 15, 1977. Viewing this in the light most favorable to Pennwalt, we will, for the purposes of this decision, use September 15, 1977, as the day Pennwalt was advised that its bid was rejected.

Our Bid Protest Procedures provide that protests "shall be filed not later than 10 [working] days after the basis for protest is known or should have been known, whichever is earlier." 4 C.F.R. § 20.2(b) (2) (1977). It is clear from the record that Pennwalt was aware of the basis of its protest more than 10 working days before its protest was filed with our Office on October 6, 1977, and its protest is therefore untimely.

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Further, it appears that Pennwalt was not familiar with the bid protest procedure available after bid rejection, since it requested "appeal forms" from GSA. Nevertheless, since our Bid Protest Procedures have been published in the Federal Register (40 Fed. Reg. 17979, April 24, 1975), protesters are charged with constructive notice of their provisions. Power Conversion, Inc. B-186719, September 20, 1976, 76-2 CPD 256.

Pennwalt's protest, therefore, is untimely and not for consideration on the merits.

Paul G. Dembling

Paul G. Dembling
General Counsel