

4758

04483

W. Wotherspoon
Pr. II.

DECISION



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

FILE: B-190727

DATE: December 13, 1977

MATTER OF: Mid-South Industries, Inc.

DIGEST:

Protest filed initially with contracting agency was not filed at GAO within 10 days of agency denial of protest and is therefore untimely and not for consideration under GAO Bid Protest Procedures.

By letter received in our Office on November 21, 1977, Mid-South Industries, Inc. (Mid-South), protests the award of contract No. DSA400-77-C-2207 for 75 refrigeration units to Ferro Mechanical Company (Ferro) under invitation for bids (IFB) No. DSA400-76-B-5016, issued by the Defense Logistics Agency (DLA). This IFB was a 100-percent small business set-aside, with 50 percent set aside for labor surplus area (LSA) firms. Mid-South was awarded the non-LSA set-aside portion of the IFB, and Ferro the LSA set-aside portion. Mid-South alleges that Ferro is a small business "front" for a large business to which it subcontracts a large percentage of the work under small business set-aside contracts and is therefore ineligible for award.

Mid-South initially protested this award on the same basis to DLA by letter of May 12, 1977. DLA denied the protest and notified Mid-South by letter of May 24, 1977, which Mid-South received on May 30.

Our Bid Protest Procedures provide, in pertinent 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 or actual or constructive knowledge of initial adverse agency action will be considered * * *." 4 C.F.R. § 20.2(a) (1977).

B-190727

Mid-South's protest, filed in our Office on November 21, 1977, is untimely under this provision and therefore will not be considered.

Paul G. Dembling
Paul G. Dembling
General Counsel