

BP-CG
Haines

DECISION



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

7971

FILE: B-192862

DATE: October 11, 1978

MATTER OF: Radiation Physics, Incorporated

DIGEST:

Protest not filed with GAO within 10 days of agency's adverse action on protest to agency is untimely and not for consideration under GAO Bid Protest Procedures.

Radiation Physics, Incorporated (Radiation), protests the decision of the National Institutes of Health, Bethesda, Maryland (NIH), to uphold the award of a contract to Radiation Management Corporation (RMC) under request for proposals No. 263-78-P(63)-0164, even though RMC has been determined a large business.

Radiation initially protested RMC's size status with the NIH. On June 23, 1978, the Small Business Administration (SBA) notified Radiation that RMC was in fact a large business. Immediately thereafter, Radiation advises that it contacted the NIH and was informed that since the award had been made to RMC, it would not be terminated. Radiation's protest to this Office was received on September 12, 1978.

Section 20.2(a) of our Bid Protest Procedures, 4 C.F.R. Part 20 (1978), states 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 * * * initial adverse agency action will be considered * * *."

Radiation's basis for protest arose on June 23, 1978, when it was advised of NIH's decision to uphold the award to RMC notwithstanding RMC's size status as a large business. Because its protest was filed with this Office more than 10 days thereafter, the protest is untimely and not for consideration.


Paul G. Dembling
General Counsel