

DECISION



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

7982

FILE: B-192629

DATE: October 11, 1978

MATTER OF: Harnischfeger Corporation

DIGEST:

Protest received by GAO more than 10 working days after receipt by protester of initial adverse agency action is untimely filed and not for consideration on merits.

Harnischfeger Corporation (Harnischfeger) protests the award of a contract under invitation for bids (IFB) No. GS-03B-84060, issued by the General Services Administration (GSA) for the provision and installation of an electric car shaker hoist for a central heating plant. Harnischfeger alleges that the awarded item did not meet the salient characteristic requirements of the specification.

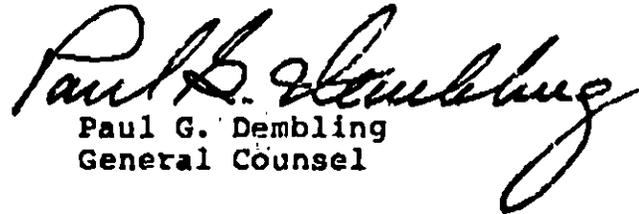
Harnischfeger initially raised this issue with GSA by letter of March 23, 1978. GSA's response, dated May 11, 1978, denied the protest and stated GSA's opinion that no functional disparity existed between the two types of hoists in question and that the product offered by the awardee fully met the specification requirements as set forth by the solicitation. Harnischfeger replied to this denial by letter dated May 30, 1978, and by letter dated July 20, 1978, protested the matter to our Office.

Section 20.2 of GAO's Bid Protest Procedures, 4 C.F.R. § 20.2 (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 * * * ." (Emphasis supplied.)

Harnischfeger received the initial denial of its protest on May 15, 1978. The date of Harnischfeger's protest letter to this Office was more than 10 working days after May 15. While the protester engaged in further correspondence with GSA, the initial (and controlling) adverse agency action (the original denial) occurred on May 15, 1978. See Maryland T Corporation, B-192247, July 19, 1978, 78-2 CPD 52.

Accordingly, the protest is untimely filed and not for our consideration on the merits.


Paul G. Dembling
General Counsel