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DECISION



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

10,271

FILE: B-194801

DATE: May 24, 1979

MATTER OF: Therm-Air Mfg. Co., Inc.

DIGEST:

Protest not filed; either with contracting officer or with General Accounting Office, within 10 working days after basis for protest is known is untimely filed and not for consideration on merits.

Therm-Air Mfg. Co., Inc. (Therm-Air), protests the award of a contract to North State Corporation (North State) under invitation for bids (IFB) No. N00228-79-B-X130, issued by the Department of the Navy (Navy), Naval Supply Center, Oakland, California, for the provision of 15 air conditioners. Therm-Air contends that it is the apparent low bidder and that the contracting officer improperly determined it to be nonresponsive. Further, Therm-Air asserts that the Navy's award to North State is "improper since it was not in accordance with the Defense Acquisition Regulations (DAR) Brand Name or Equal" requirement.

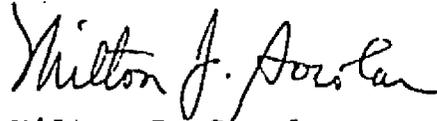
The protest is untimely. Section 20.2(b)(2) of our Bid Protest Procedures provides in pertinent part that protests be filed, either with the contracting agency or with this Office, not later than 10 working days after the basis for protest is known. 4 C.F.R. § 20.2(b)(2) (1978). Therm-Air was advised by the Navy during an informal discussion on April 20, 1979, that its bid was nonresponsive and that award of the contract had been made to North State. Therm-Air, therefore, learned of the basis for its protest on that date. However, Therm-Air's protest letter to our Office was not filed (received) until May 8, 1979. Consequently, the protest is untimely filed and not for consideration on the merits. See Kings Point Manufacturing Co. Inc., B-191452, April 19, 1978,

B-194801

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78-1 CPD 306; Baytron Systems Corporation, B-192329,
July 24, 1978, 78-2 CPD 67.

The protest is dismissed.



Milton J. Socolar
General Counsel