

11425 Mr. Levitan P. 11

DECISION



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

[Protest Alleging That Awardee's Bid Was Nonresponsive]

FILE: B-195522

DATE: September 14, 1979

MATTER OF: Allied Resources, Inc.-- DLG02524
Reconsideration

DIGEST:

Where basis of protest is known prior to award, protester may not wait until notification of award to protest to GAO. Prior decision dismissing protest as untimely is affirmed where protester has not shown that dismissal was based on errors of fact or law.

Allied Resources, Inc. (ARI), requests reconsideration of our decision, Allied Resources, Inc., B-195522, August 6, 1979, 79-2 CPD ____, dismissing its protest as untimely. For the reasons that follow, we affirm the dismissal.

In its initial protest, ARI protested the Department of Air Force's (Air Force) award of contract No. F 34650-79-BM010 for audiovisual services at Tinker Air Force Base, Oklahoma, to Burke Enterprises (Burke). ARI alleged that Burke's bid was nonresponsive and should have been rejected. ARI initially protested to the Air Force and in a letter dated June 26, 1979, the Air Force denied ARI's protest. ARI's protest was filed with (received by) our Office nearly one month after the date of the Air Force's letter rejecting ARI's protest. We concluded that the protest to this Office was untimely since it was not received here within 10 days after ARI's receipt of the agency's denial, as required by our Bid Protest Procedures, 4 C.F.R. § 20.2(a) (1979).

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In its request for reconsideration, ARI contends that its protest should be considered timely because the 10-day period to file the protest should be computed from the date it received notification of award

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rather than from notification of the agency's denial of its protest. ARI argues that it could not appeal the agency's action until the actual award was made and notification was received.

We find no validity to this argument. Our Office has consistently held that where the basis of a protest is known prior to award, the protester may not wait until notification of award to protest to our Office. Sono-Tek Corporation, B-192061, October 20, 1978, 78-2 CPD 290. In the instant case, the denial of ARI's protest by the Air Force, indicating an intent to award to the low bidder, provided ARI an adequate basis upon which to protest to our Office. Since ARI does not contest our conclusion that its protest was not received here within 10 days of ARI's receipt of the agency denial, the protest was properly dismissed as untimely. 4 C.F.R. § 20.2(a), supra. California Computer Products Inc. -- Reconsideration, B-193611, May 15, 1979, 79-1 CPD 354.


Deputy Comptroller General
of the United States