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DECISION



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

FILE:

B-201961

DATE: February 26, 1981

MATTER OF:

Kirschner Brush Manufacturing Company

[Protest Alleging GSA Failed to Provide Opportunity to Bid on Contract]

DIGEST:

Protest is untimely and not for consideration on merits when basis for protest (protester not solicited for contract due to unresolved problems on prior contracts) was known more than 10 days prior to filing.

Kirschner Brush Manufacturing Company (Kirschner) protests the failure of the General Services Administration (GSA) to provide that firm an opportunity to bid on a contract to furnish several brush items. The protester does not identify the solicitation involved here, but GSA has informally advised us that these items were most recently procured under invitation for bids (IFB) No. 10PR-VJS6868 for the period September 1, 1980 through July 31, 1981, and that bids on this procurement were opened in June 1980. We dismiss this protest because it is untimely filed.

Our Bid Protest Procedures provide that protests "shall be filed not later than 10 [working] days after the basis for protest is known or should have been known, whichever is earlier." 4 C.F.R. § 20.2(b)(2) (1980).

Kirschner alleges that it contacted GSA to determine why it had not been sent the most recent IFB for brush items, and was informed that it would receive no future solicitations until performance problems with prior contracts were resolved. Bids were then opened in June 1980 as scheduled and Kirschner did not file this protest until January 16, 1981, more than 10 days after it was aware of its basis for protest. It is

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thus apparent that Kirschner's protest is untimely and not for consideration on the merits. See generally International Power Machines Corporation, B-197697, March 17, 1980, 80-1 CPD 206.

The protest is dismissed.

Harry R. Van Cleve

For Milton J. Socolar
General Counsel