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DECISION



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

FILE: B-203596

DATE: June 22, 1981

MATTER OF: U.D.E. Corporation

DIGEST:

Protest filed with GAO more than 10 working days after protester receives notification of initial adverse agency action (denial of its protest filed with contracting agency) is untimely and will not be considered on the merits.

U.D.E. Corporation protests the award of a contract under invitation for bids 509-10-81 by the Veterans Administration to T.M. Nickles Construction Company. For the reasons stated below, we find the protest to be untimely filed and therefore not for consideration on the merits.

U.D.E. initially filed a protest concerning the bid offered by T.M. Nickles to the contracting agency in an April 29, 1981 letter. In its letter, U.D.E. protested the decision of the contracting officer to accept a bid modification made by T.M. Nickles even though it was written on the outside of the bid envelope. In a May 4 letter, the agency denied the protest. Receipt of the agency letter by U.D.E. was acknowledged in a letter U.D.E. sent to the agency on May 8. On June 9, 1981, approximately one month after U.D.E. knew of the denial of its protest filed with the contracting agency, we received a protest from U.D.E. concerning the bid modification.

We believe the protest to be untimely. Section 20.2 (a) of our Bid Protest Procedures, 4 C.F.R. § 20.2(a) (1980), requires that if a protest has been filed initially with the contracting agency, any subsequent protest to our Office must be filed within 10 working days

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after notification of initial adverse agency action. The VA's letter of May 4 notifying U.D.E. that its protest was denied constituted initial adverse agency action, and U.D.E. had 10 working days from its receipt of the letter to file a protest with our Office. Yet, no protest to our Office was filed within the 10-day time limit.

The protest is dismissed.

Harry R. Van Cleve
For Harry R. Van Cleve
Acting General Counsel