

Shelley

19959

DECISION



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

FILE: B-205250

DATE: November 4, 1981

MATTER OF: MRS Interior Systems, Inc.

DIGEST:

1. Protest received by GAO more than 10 working days after initial adverse agency action is untimely filed.
2. Untimely protest sent to address other than that set forth in section 21.1(b) of the Bid Protest Procedures is not for consideration.

By letter dated October 14, 1981, the General Services Administration (GSA), Office of Inspector General, forwarded a copy of a telegram from MRS Interior Systems, Inc. (MRS), protesting that firm's disqualification to submit a bid in response to solicitation No. DACA-78-81-R-0004 issued by the United States Army Corps of Engineers.

According to MRS, it was advised that it was not a qualified bidder because it failed to file Standard Form 129 (Bidders Mailing List Application) which was apparently used to compile a "qualified bidders" list. MRS states that it protested the refusal to issue MRS a solicitation to the Corps of Engineers, but the Corps proceeded to bid opening on September 24, 1981, without any response to the protest.

Under our Bid Protest Procedures, where a protest has been filed initially with the contracting agency, any subsequent protest to the General Accounting Office will be considered if the protest is filed within 10 days of formal notification of or actual or constructive knowledge of initial adverse agency action. 4 C.F.R. § 21.2(a) (1981). The bid opening on September 24, 1981, without taking any corrective action, constitutes initial adverse agency action. Beelner & Thomas, B-202978, May 4, 1981, 81-1 CPD 341. Therefore,

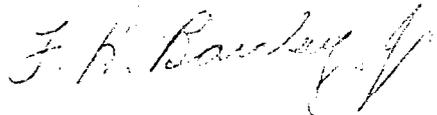
~~019032~~

116818

the protest filed in our Office on October 20, 1981, by GSA's letter of October 14, 1981, is untimely. The term "filed" means receipt in our Office. 4 C.F.R. § 21.2(b)(3) (1981).

Also, it is noted that the protest telegram was addressed to the "Governmental Auditing Office, c/o General Service Administration." Section 21.2(b)(3) of our Bid Protest Procedures cautions that protests should be transmitted or delivered in the manner which will assure the earliest receipt. Delay in transmission caused by the misaddressing by the protester is not a reason for considering an untimely protest. In addition, we do not believe consideration is merited under the good cause or significant issue provision of section 21.2(c). Maryland T Corporation, B-192247, July 19, 1978, 78-2 CPD 52.

Accordingly, the protest is dismissed.



For Harry R. Van Cleve
Acting General Counsel