

117193

20426 Weiskopf

DECISION



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

FILE: B-205732

DATE: December 30, 1981

MATTER OF: Chipman Van & Storage, Inc.

DIGEST:

Protest filed with GAO two months after date of contracting agency's initial adverse action and three months after date of initial protest filed with the agency is untimely. GAO will allow only a reasonable period to receive notice of adverse agency action through the mail.

Chipman Van & Storage, Inc. protests the proposed contract award to Able Moving and Storage for certain moving services under Naval Supply Center invitation for bids No. (IFB) N00228-81-B-8345. Chipman contends that Able's bid should be deemed nonresponsive because it did not comply with the solicitation requirement that the bidder state a "Bidder's Guaranteed Daily Capacity" which equaled or exceeded the Navy's minimum acceptable stated capacity listed in the IFB. We dismiss the protest as being untimely filed.

Our Bid Protest Procedures encourage protesters to seek resolutions of their complaints initially with the contracting agency, and require that any subsequent protest to this Office must be filed within ten working days of formal notification or actual or constructive knowledge of initial adverse action by the contracting agency. 4 C.F.R. § 21.2(a) (1981).

The protester initially filed the same protest with the Navy by a letter dated September 2, 1981. The Navy's response denied the protest by letter dated October 9, 1981. Chipman's receipt of this letter constituted formal notification of initial adverse action. Chipman, however, did not file its protest with this Office until December 7, 1981. Allowing a reasonable time for Chipman to have received the Navy's letter, we believe Chipman's protest filed with this Office

almost two months later is untimely. Cf. Delphi Industries, Inc., 58 Comp. Gen. 248 (1979), 79-1 CPD 67 (a case which allows a reasonable period to receive mailed copies of the Commerce Business Daily that provide the basis of protest). Moreover, even if the Navy had not responded to the September 2 protest at all, Chipman waited too long (3 months from the date of the protest to the Navy) for the protest to be considered timely filed. 52 Comp. Gen. 792 (1973).

The protest is dismissed.

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