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DECISION



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

FILE: B-206137

DATE: February 17, 1982

MATTER OF: Afri-American Supply Company

DIGEST:

1. Protest filed with GAO more than 10 days after protester learns of initial adverse agency action on protest filed with agency is dismissed as untimely.
2. Protest alleging that agency will improperly deny award to protester is speculative and will not be considered.

Afri-American Supply Company (Afri-American) protests the General Services Administration's (GSA) handling of solicitations No. AT/TC 19115 (hereafter 15) and No. AT/FS 19117 (hereafter 17) for dry cell batteries. We are not considering either protest because the protest under solicitation 15 is untimely and the protest under solicitation 17 is premature.

The record shows that GSA advised Afri-American in early October 1981 that it was not a successful bidder on solicitation 15. At that time, Afri-American protested GSA's evaluation of the bids directly to GSA. By letter of November 16, 1981, Afri-American furnished GSA with the details of its protest. On December 2, 1981, GSA wrote Afri-American explaining why in GSA's opinion the Afri-American bid on solicitation 15 was properly rejected. Afri-American filed its protest with our Office on January 20, 1982.

Under our Bid Protest Procedures, a protester has 10 working days after initial adverse agency action on its protest filed with the contracting

agency to subsequently file a protest with our Office, 4 C.F.R. § 21.2(a) (1981). GSA's December 2, 1981, letter was clearly adverse to Afri-American's position. We did not receive Afri-American's subsequent protest until January 20, 1982, well beyond the 10-day time limit of 4 C.F.R. § 21.2(a). Therefore, Afri-American's protest under solicitation 15 is untimely and will not be considered.

Afri-American's protest under solicitation 17 is based on its belief that GSA will improperly deny an award to Afri-American notwithstanding the Small Business Administration's issuance of a certificate of competency to Afri-American. A protest which merely anticipates improper agency action is speculative. See Aero Corporation, B-194445, June 5, 1979, 79-1 CPD 394. Moreover, we understand that GSA is now in the process of making awards to Afri-American on all items for which it was eligible.

The protest under solicitation 15 is dismissed as untimely and the protest under solicitation 17 is dismissed as premature.

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