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DECISION



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

FILE: B-206598

DATE: March 12, 1982

MATTER OF: Simpson Electric Company

DIGEST:

Protest filed with the General Accounting Office more than 10 days after receipt of notification of adverse agency action--award of contract--on protest filed initially with contracting agency is untimely and not for consideration on merits.

Simpson Electric Company (Simpson) protests the Defense Logistics Agency's award of a contract for multimeters to VIZ Manufacturing Company (VIZ) under invitation for bids DLA-900-81-B-6958. Simpson primarily asserts that the literature submitted with the VIZ bid indicates that VIZ is offering a product which does not meet the specifications. We find the protest to be untimely.

Simpson initially protested the acceptability of the VIZ bid to the contracting agency. Approximately three months later, on February 11, 1982, Simpson received a notice from the contracting agency that award had been made to VIZ. Simpson continued protesting to the agency and finally filed a protest with this Office on March 3, 1982.

Our Bid Protest Procedures state that if a protest has been filed initially with the contracting agency, any subsequent protest to this Office, to be considered timely, must be filed within 10 days of receipt of actual or constructive knowledge of adverse agency action. 4 C.F.R. §21.2(a) (1981). Award of a contract in the face of a protest against such an award is considered adverse agency action. 4 C.F.R. §21.0(b); National Flooring Company, B-188019, February 24, 1977, 77-1 CPD 138. Therefore, Simpson's protest is untimely and will not be considered on the merits.

We note that Simpson also complains that it is placed at an unfair competitive advantage because while it is subject to various socio-economic policies of the Government, such as a requirement to subcontract with small business concerns, VIZ, offering foreign-made products, is not. The possibility that a foreign bidder or a bidder furnishing foreign-made products may have an economic advantage over a domestic bidder does not provide any basis for precluding foreign bidders. Fire and Technical Equipment Corporation, B-203858, September 29, 1981, 81-2, CPD 266. As we have stated in a variety of circumstances, the Government is not required to equalize competition by taking into consideration competitive advantages which accrue to firms by reason of their own particular circumstances. See, e.g., Alexandria Graphics and Reproduction Service, B-198592, August 4, 1980, 80-2 CPD 82.

The protest is dismissed.

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