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DECISION



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

FILE: 206598.2

DATE: April 13, 1982

MATTER OF: Simpson Electric Company
Reconsideration

DIGEST:

Request for reconsideration
which does not indicate any
error of fact or law in prior
decision is denied.

Simpson Electric Company (Simpson) requests reconsideration of our decision Simpson Electric Company, B-206598, March 12, 1982, 82-1 CPD _____, in which we dismissed as untimely Simpson's protest against the Defense Logistics Agency's (DLA) award of a contract to VIZ Manufacturing Co. (VIZ) under invitation for bids DLA 900-81-B-6958.

Simpson originally protested to DLA on November 5, 1981, and sent additional correspondence on November 13, 1981 and on February 26, 1982. On February 11, however, Simpson was notified that DLA had made an award to VIZ. We dismissed the protest here as untimely because it was not filed within 10 days of February 11, as required by section 21.2 (a) of our Bid Protest Procedures.

Simpson now asserts that our decision "is based on a misunderstanding of the facts involved" and that section 21.2 (a) of our procedures "assumes that the contracting agency has acted responsibly in considering protests made to it" which Simpson states is not the case here because the protest to the agency has not yet been answered.

The applicable provision of section 21.2(a) states that if a protest is filed initially with the contracting agency, a subsequent protest to GAO must be filed within 10 days of actual or constructive notice to the protester of initial adverse action. That adverse action may be a formal rejection or denial of the protest. However, any agency action adverse to the protester's position constitutes the adverse action referred to in our procedures, and section 21.9(b) specifically defines adverse action as including contract award while a protest is pending.

Our prior decision fully sets forth this rationale. Simpson has not demonstrated any error of fact or law in that decision. Therefore, the request for reconsideration is denied. 4 C.F.R. §21.9 (1981).

William J. Jordan
for
Comptroller General
of the United States