

James [unclear]

DECISION



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

21723
718283

FILE: B-206885

DATE: May 3, 1982

MATTER OF: Art's Supplies & Services

DIGEST:

Protest against cancellation of solicitation filed with GAO more than 10 working days after the protester's receipt of cancellation notice and letter indicating the basis for cancellation of solicitation is untimely and not for consideration. See 4 C.F.R. § 21.2(b)(2) (1981). Alternatively, even if protester's correspondence with contracting agency is viewed as timely filed protest with contracting agency, protest filed with GAO more than 2 months after contracting agency's initial adverse action on protest is untimely. See 4 C.F.R. § 21.2(a) (1981).

Art's Supplies & Services (AS&S) protests the cancellation of invitation for bids (IFB) No. N62383-82-B-0201, issued by the Military Sealift Command, Pearl Harbor, Hawaii (Navy), for repairs to cargo containers and chassis.

Bids were opened on September 3, 1981. However, the Navy found all bids to be unreasonably high and, thus, cancellation was deemed to be in the best interests of the Government. Accordingly, on October 15, 1981, the Navy canceled the IFB. The reason for the cancellation was provided to AS&S, through a congressional source, by letter dated October 20. AS&S filed its protest in our Office on March 17, 1982.

Section 21.2(b)(2) of our Bid Protest Procedures, 4 C.F.R. part 21 (1981), provides that a protest must be filed with our Office within 10 days of the protester's knowledge of its basis for protest. At the latest, AS&S knew its basis for protest upon receipt of the Congressman's October 20 letter. Therefore, AS&S's protest to our Office, filed on March 17, 1982, is untimely and will not be considered on the merits.

Beginning on October 22, 1982, AS&S wrote a series of letters to the Navy and a congressional representative objecting to the Navy's cancellation of the IFB. The Commander, Military Sealift Command, responded to AS&S's correspondence by letter dated January 6, 1982, and affirmed the cancellation. This letter was forwarded to AS&S by the Congressman on January 7. Even if we interpret AS&S's correspondence to the Navy as a timely filed protest with the procuring agency, the subsequent protest to GAO was untimely filed. Section 21.2(a) of our Bid Protest Procedures requires that where a protest has been filed initially with the procuring agency, any subsequent protest to our Office must be filed within 10 working days after the protester receives notice of the procuring agency's initial adverse action on the protest at that level. 4 C.F.R. § 21.2(a) (1981). Gerald Laird, B-204382.4, November 23, 1981, 81-2 CPD 418. AS&S received notice of the Navy's affirmation of the cancellation upon receipt of the Congressman's January 7 letter. Therefore, the protest filed with our Office on March 17, more than 2 months later, is clearly untimely.

The protest is dismissed.

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