

DECISION



118366
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-207272

DATE: May 11, 1982

MATTER OF: Advanced Thermal Systems, Inc.

DIGEST:

A protest filed more than 10 working days after formal notification of initial adverse agency action is untimely under 4 C.F.R. § 21.2 (1981). Fact that protester appealed denial to agency does not alter conclusion.

On April 26, 1982, Advanced Thermal Systems, Inc. (ATS), filed a protest with our Office against the award of a contract under solicitation No. N00189-82-R-0014 issued by the Naval Supply Center, Norfolk, Virginia. The protest indicates on its face that the protester initially filed the protest with the Navy, which denied the protest by letter of March 29, 1982. On April 6, 1982, ATS again filed its protest with the agency, which dismissed the second protest as untimely.

We dismiss the protest.

Section 21.2 of our Bid Protest Procedures, 4 C.F.R. § 21.2(a) (1981), provides, in pertinent part, that if a protest has been filed initially with the contracting agency, any subsequent protest to the General Accounting Office must be filed within 10 working days of formal notification or of actual or constructive knowledge of initial adverse agency action.

ATS was formally notified of the initial adverse agency action by letter of March 29, 1982, but did not file a protest with our Office until April 26, 1982, more than 10 working days after the formal notification. Therefore, the protest is untimely and the fact that ATS appealed or requested reconsideration by the Navy of the initial denial does not affect our conclusion. Irwin Industries, Inc., B-204786, October 5, 1981, 81-2 CPD 277.

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We dismiss the protest.

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