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DECISION



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

FILE: B-208676

DATE: August 31, 1982

MATTER OF: R. A. Bachman Co., Inc.

DIGEST:

Protest filed with GAO more than 10 working days after it appears protester learned of basis for protest is untimely under 4 C.F.R. § 21.2(a) (1982) and will not be considered.

R. A. Bachman Co., Inc. (RAB), protests the award of a contract to the Butters-Fetting Company (BFC) under invitation for bids (IFB) No. 695-61-82. The IFB was issued as a small business set-aside by the Veterans Administration (VA). RAB contends that BFC does not qualify as a small business concern and RAB, as next low bidder, should have been awarded the contract.

Bids for the subject IFB were opened on June 14, 1982, and on June 15, RAB objected to the VA contracting officer that BFC did not qualify as a small business for award of this contract. The contracting officer responded that the VA investigates contractors to insure compliance with IFB requirements prior to award. On July 12, 1982, RAB learned of the award to BFC. That same day, RAB confirmed this information with the contracting officer by telephone. The contracting officer advised RAB that, in his view, BFC was a qualified small business. RAB filed its protest with GAO on August 18, 1982. Assuming our Office would take jurisdiction of this matter under Solon Automated Services, Inc., B-198670, November 18, 1980, 80-2 CPD 365, if RAB's objection to the contracting officer constituted a valid size protest, we find the subsequent protest to our Office to be untimely.

Section 21.2(a) of our Bid Protest Procedures, 4 C.F.R. § 21.2(a) (1982), requires that a protest be filed (received) within 10 working days of the protester's knowing

of the basis for protest. It is clear from RAB's letter that it knew the basis of its protest by July 12, when it received notice of award to BFC. Therefore, the protest filed here on August 18 was not filed with GAO within 10 working days from the date the protester learned of the basis for its protest and is untimely.

We dismiss the protest.

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