

DECISION

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

24222

FILE: B-210309

DATE: February 7, 1983

MATTER OF: Emerson Industrial Controls

DIGEST:

Request for bid preparation costs based on matters not timely protested will not be considered.

Emerson Industrial Controls (Emerson) requests bid preparation costs as a remedy for the Veterans Administration's (VA) cancellation of invitation for bids (IFB) No. 633-19-83 after bid opening.

We dismiss the claim because it is based on matters that were not timely protested.

Emerson received the notice of VA's cancellation of the IFB on November 1, 1982. By letter to the VA dated November 24, 1982, Emerson protested that the cancellation was arbitrary and capricious, and requested bid preparation costs. On December 28, 1982, Emerson filed its claim at the General Accounting Office because VA had not responded in what Emerson considered a timely fashion.

GAO will not consider a claim for bid preparation costs which is based on issues raised in an untimely protest. Mil-Air, Inc., B-191424, July 20, 1978, 78-2 CPD 55; DWC Leasing Company, B-186481, November 12, 1976, 76-2 CPD 404. Section 21.2(a) of our Bid Protest Procedures, 4 C.F.R. § 21.2(a) (1982), provides that GAO will consider a subsequent protest that was initially filed with the contracting agency only if the initial protest was timely filed. To be timely filed, a protest must be filed with the agency within 10 working days of the date that the protester was aware of the basis for its protest. 4 C.F.R. § 21.2(b).

The basis for Emerson's protest and request for bid preparation costs was known to it on November 1, 1982, yet Emerson did not file its protest and request with VA until sometime after November 24, 1982, more than 10 working days later.

0-1578

Since the request for bid preparation costs is based on matters not timely protested it is dismissed.

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