

20058

DECISION



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

FILE: B-209692.2

DATE: June 27, 1983

MATTER OF: Davidson-Kennedy Company

DIGEST:

Bid protest submitted 7 weeks after protester was advised that, based on reevaluation of bids, it was not low bidder is untimely.

Davidson-Kennedy Company (Davidson) protests the award of a contract for fueling hose reels and rubber hose to Fluid Automation (Fluid) under invitation for bids (IFB) No. N62472-82-B-1662, issued by the Naval Facilities Engineering Command (Navy). Davidson contends that the Navy erred in determining that Fluid's bid was the lowest bid submitted because the Navy initially determined that Davidson's was the low bid.

The bids were opened on September 30, 1982. The Navy reports that there were 16 bidders. The original evaluation showed Davidson's as the lowest bid received. However, as a result of reevaluating the bids to take into consideration factors not initially considered, the Navy found that Fluid was the lowest bidder by \$13,637.32.

Davidson contends that because it was initially advised that it was the low bidder, the award should be split between Davidson and Fluid or, alternatively, the Navy should reject all bids and resolicit.

We agree with the Navy's contention that Davidson's protest filed on March 15, 1983, is untimely. Our Bid Protest Procedures require the filing of a protest within 10 working days after the basis of the protest is known or should have been known, whichever is earlier. 4 C.F.R. § 21.2(b)(2) (1983). It is unclear from the protest when Davidson first became aware of the Navy's reevaluation resulting in Fluid being designated the lowest bidder. The Navy, however, reports that a representative of the protester was advised by telephone on January 19, 1983, that its bid was no longer the lowest bid.

025976

Because the Navy's contention that the protest is untimely has not been refuted by the protester, we find the protest untimely.

Protest dismissed.

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