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DECISION

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

FILE: B-212393 **DATE:** July 29, 1983

MATTER OF: Vynasteel Corporation

DIGEST:

Protest filed with GAO more than 10 working days after firm learned that its protest to the contracting agency was denied is untimely and not for consideration on the merits.

Vynasteel Corporation protests the award of any contract under invitation for bids (IFB) No. F39601-82-B-0021, issued by the Air Force for the replacement of steel siding on buildings at Ellsworth Air Force Base, South Dakota. Vynasteel contends that the specification for the siding is unduly restrictive due to a requirement that the cut edges, weepholes, nail slots and side slots of the siding panels be painted with primer before being coated with vinyl. Vynasteel claims this priming process is outmoded and should be deleted since only one manufacturer can furnish siding prepared in this manner. We dismiss the protest as untimely.

Vynasteel initially protested this matter to the Air Force by letter dated May 23, 1983. The Air Force denied the protest by letter of June 22, which the protester states it received on June 27. Vynasteel then refiled its protest with the Air Force by letter dated June 30, disagreeing with the basis for denial of its initial protest. The Air Force proceeded with the scheduled July 1 bid opening, and Vynasteel filed a protest with our Office on July 15.

Our Bid Protest Procedures, 4 C.F.R. § 21.2(a) (1983), state that if a protest is initially filed with the contracting agency, any subsequent protest to our Office must be filed within 10 working days after notification of the initial adverse agency action on the protest. Vynasteel states that it learned of the denial of its May 23 protest--the initial adverse action by the Air Force--on June 27, more than 10 days prior to filing its protest in our Office on July 15. This protest therefore is untimely and will not be considered on the merits. See Robert E. Robocker, B-207279, May 10, 1982, 82-1 CPD 450.

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The fact that Vynasteel refiled its protest with the Air Force after learning that its first protest had been denied, and then protested to our Office within 10 days after bid opening, does not affect our conclusion. While we recognize that a protester may consider an agency's initial adverse action to be ill-founded or inadequately explained, and thus may consider it necessary to correspond further with the agency, it nonetheless must file any protest to our Office within 10 days of being notified of the initial adverse agency action. See 52 Comp. Gen. 20 (1972); Rowe Industries, B-185520, January 8, 1976, 76-1 CPD 13.

The protest is dismissed.

Harry R. Van Cleve

Harry R. Van Cleve
Acting General Counsel