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Moorehouse

DECISION



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

FILE: B-212494

DATE: August 4, 1983

MATTER OF: Barber Industrial

DIGEST:

Where a protest initially is filed with the contracting agency, a subsequent protest to GAO must be filed within 10 working days from notification of the contracting agency's initial adverse action on the protest at that level.

Barber Industrial protests the award of a contract for two mobile cleaning systems to Bear Pump Company under request for proposals (RFP) No. DTFR54-83-R-0019 issued by The Alaska Railroad, Department of Transportation. Barber contends that the award was improper as the firm was the low offeror for one of the systems, and that Bear Pump's proposal for the same system was technically unacceptable. We dismiss the protest as untimely.

Our Bid Protest Procedures provide that if a protest has been filed with the contracting agency, any subsequent protest to this Office must be filed within 10 working days after the protester is notified of the contracting agency's initial adverse action on the protest. 4 C.F.R. § 21.2(a) (1983). Here, the protester's submission establishes that the firm, with knowledge of the equipment and prices offered by Bear Pump, sought an explanation for the June 3, 1983 award from the contracting officer during the period from June 16 to June 23, but that a satisfactory explanation was not forthcoming by the end of that period. If we give Barber the benefit of assuming that June 16 was the date of an initial protest to the contracting agency, we believe June 23 was the date by which Barber should have known that the contracting agency's position was adverse to Barber's interests. Barber did not protest to this Office, however, until July 26. Therefore, the protest was not filed within the 10-day period and is untimely. Gulf Systems Inc., B-210080, January 6, 1983, 83-1 CPD 12.

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The protest is dismissed.

J. H. Barclay, Jr.
for Harry R. Van Cleve
Acting General Counsel