

DECISION



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

26170

FILE: B-212874

DATE: September 7, 1983

MATTER OF: Inland Empire Waste Control

DIGEST:

1. Protest challenging below-cost bidders does not provide basis for GAO taking legal objection to acceptance of a bid and further, to the extent protest questions responsibility determination, it is dismissed because GAO does not review affirmative determinations of responsibility in absence of showing of fraud or showing that definitive responsibility criteria in solicitation were misapplied, circumstances not present here.
2. Protest filed with GAO more than 10 working days after protester learns of agency's denial of protest first filed with agency is untimely.

Inland Empire Waste Control (Inland) protests IFB F04700-83-B-0030 issued by the Department of the Air Force for the cleaning of industrial waste traps and settlement basins. Inland, the third low bidder, alleges that the two lower bidders might not have "valid" bids in light of their low prices. We dismiss the protest.

An allegation that a bid price is too low does not provide a basis for our taking legal objection to acceptance of the bid. Biospherics, Inc.--Reconsideration, B-203419.4, March 16, 1982, 82-1 CPD 246. To the extent the allegation represents a challenge to the responsibility of the two bidders, that is, their ability to perform the contract at the bid prices, we point out that we do not review affirmative determinations of a bidder's responsibility unless there is a showing of possible fraud on the part of the procuring officials or the solicitation contains definitive responsibility criteria which the procuring officials allegedly have failed to apply. General Electrodynamics Corporation, B-212779, August 26, 1983, 83-2 CPD ____. Neither circumstance is present here.

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Moreover, the protest is untimely. Inland first protested to the Air Force. The Air Force denied the protest by letter of August 2, 1983. Our Bid Protest Procedures in these circumstances require that a subsequent protest to our Office be filed within 10 days of Inland's receipt of that letter, 4 C.F.R. § 21.2(a) (1983). We did not receive Inland's protest, however, until August 30, 1983.

The protest is dismissed.

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