

DECISION

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

FILE: B-212378.6

DATE: October 4, 1983

MATTER OF: TWC Energy Systems, Inc.--
Reconsideration

DIGEST:

Prime contractor's protest, indicating its interest in a protest filed by its subcontractor, is untimely since the prime contractor's protest was not filed within 10 working days after the prime contractor knew the basis for its protest.

TWC Energy Systems, Inc. (TWC), requests reconsideration of our decision in TWC Energy Systems, Inc., B-212378.4, August 10, 1983, 83-2 CPD _____. Our decision dismissed as untimely TWC's protest of the Army's determination that TWC's proposal was technically unacceptable to step one of a two-step procurement since TWC did not protest within 10 working days after being notified that its proposal was unacceptable. TWC contends that its protest should be considered since its subcontractor submitted a timely protest to our Office.

In some circumstances, a proposed subcontractor may properly challenge the rejection of the prime contractor's bid as nonresponsive where the potential prime contractor participates or acquiesces in the protest. Climatological Consulting Corporation, B-197906, August 4, 1980, 80-2 CPD 81. We have held, however, that the prime offeror in these cases must demonstrate its acquiescence by complaining directly to our Office. Educational Project, Inc., 56 Comp. Gen. 730 (1977), 77-1 CPD 441.

Under our Bid Protest Procedures, a protest must be filed within 10 working days after the protester knows the basis of its protest. 4 C.F.R. § 20.2(b)(2) (1983). Since TWC's initial protest, demonstrating its interest in the protest filed by its subcontractor, was not received by our Office within 10 days after TWC knew the basis for its protest, it is untimely.

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Accordingly, our prior decision is affirmed.

for *Milton J. Fowler*
Comptroller General
of the United States