

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

28237

FILE: B-214142.2**DATE:** May 15, 1984**MATTER OF:** The Bendix Corporation--Reconsideration**DIGEST:**

Time for fixing date of protest is when protest is made and not when protester indicates an intention to file a future protest.

The Bendix Corporation (Bendix) requests that we reconsider our decision in The Bendix Corporation, B-214142, March 12, 1984, 84-1 CPD 285, in which we dismissed as untimely Bendix's protest against the Department of the Army's (Army's) rejection of its bid under invitation for bids No. DAAA22-83-B-0143.

In that decision, we dismissed as untimely a protest initially filed with our Office on January 17, 1984, because Bendix's protest was not received in our Office within 10 working days after it was notified of the basis for its protest on December 12, 1983.

In its request for reconsideration, Bendix claims that it notified the Army in a telephone conversation on December 12, 1983, of its intent to protest the Army's determination that its bid was nonresponsive. Bendix contends that this notification of its intent to protest satisfies our timeliness rules. We disagree.

Bendix's December 12 telephone conversation with Army contracting personnel does not constitute a protest. While Bendix appears to have indicated an intention to file a future protest, we have held that a threat to protest merely expresses the possibility of a protest in the future and cannot be used to fix the date of the protest for timeliness purposes. JRS Industries, Inc., B-208867, April 4, 1983, 83-1 CPD 348.

Accordingly, since the protest was not filed until January 17, 1984, clearly more than 10 days after Bendix first knew of the basis for its protest, the protest clearly was untimely.

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The prior decision is affirmed.

Milton J. Fowler

Acting Comptroller General
— of the United States