

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

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FILE: B-216278**DATE:** September 10, 1984**MATTER OF:** Gary L. Wehner**DIGEST:**

Protest filed several months after basis for protest was known is untimely under GAO Bid Protest Procedures, which require protests to be filed within 10 days of when basis of protest is known. Protester's attempt to have matter handled by the agency board of contract appeals does not toll the 10-day filing requirement.

Gary L. Wehner protests the cancellation of invitation for bids No. R2-83-43, issued by the Forest Service on March 23, 1983 and subsequently canceled, after bid opening, on September 30, 1983. We will not consider the protest because it is untimely.

The documents submitted by Wehner indicate that he was the low bidder for a portion of the work but did not receive notification of the September 30 cancellation until late October 1983 after he made inquiries through his congressman. The documents further indicate that Wehner learned not later than January 1984 of the basis for the cancellation, and that subsequently Wehner appealed the cancellation to the agency Board of Contract Appeals, which ruled that it did not have jurisdiction over the matter. Wehner protested here on September 4, 1984.

Our Bid Protest Procedures require that a protest of this type be filed either with the contracting agency or with this Office not more than 10 working days after the basis of protest is known or should have been known. See 4 C.F.R. § 21.2(b)(2) (1984). It is clear that Wehner knew of his grounds for protest by January 1984. The appeal to the Board of Contract Appeals, which traditionally has not exercised jurisdiction over the type of dispute involved here, see 7 C.F.R. § 24.4 (1984) for the board's jurisdiction, does not toll that

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10-day period. Gold Standard Corporation, B-193474, Jan. 22, 1979, 79-1 CPD ¶ 41; see 3M Business Products Sales Inc, Aug. 13, 1979, 79-2 CPD ¶ 115, in which we held that filing a protest with the wrong agency does not toll the timeliness requirements of the bid protest procedures. Therefore, the protest filed here several months after the basis for protest was known is untimely and will not be considered.

The protest is dismissed.

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