

DECISION

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

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FILE: B-216419

DATE: September 24, 1984

MATTER OF: NDE Technology, Inc.

DIGEST:

1. Protest filed with GAO more than 10 days after protester receives denial of protest it filed with the contracting agency is untimely.
2. Protest regarding propriety of evaluation of competing proposals does not raise an issue significant to procurement practices such as to warrant invoking the significant issue exception to GAO bid protest timeliness requirements.

NDE Technology, Inc. protests the rejection of its proposal and the award to another company by the Air Force under request for proposals No. F40600-83-R-0008. We dismiss the protest as untimely.

The material accompanying NDE's protest letter indicates that NDE (1) was notified of the rejection of the proposal in January 1984, (2) allegedly protested orally at that time to the contracting agency, (3) filed Freedom of Information Act requests with the Air Force between January and June, (4) by letter of July 11, filed a written protest with the Air Force against both rejection of its proposal and the acceptance of a competing proposal, (5) was notified of the rejection of its protest by an Air Force letter dated August 6, and (6) by letter of September 4, requested the Air Force to reevaluate its protest. The protest was filed here on September 14.

Even assuming that NDE protested orally to the agency in January (the Air Force does not agree that there was such a protest) and that NDE had a valid reason for waiting several months thereafter to pursue that protest, the protest filed here is nonetheless untimely. Our Bid Protest Procedures require that if a protest is first filed with the contracting agency, any subsequent protest to this

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Office must be filed within 10 working days of when the protester knew of initial adverse action by the agency on the protest. 4 C.F.R. § 21.2(a) (1984). The August 6 letter rejecting NDE's protest clearly constituted such adverse action; NDE therefore had to take its protest here within 10 days of its receipt of that letter. The protest was not filed here, however, until more than a month later.

NDE suggests that if its protest is untimely, we should consider it nonetheless under an exception to our timeliness rules for cases raising issues significant to procurement practices or procedures. See 4 C.F.R. § 21.2(c). We do not view this protest, which essentially involves the validity of the evaluation of competing proposals, as raising a significant issue. See Catalytic, Inc., B-187444, Nov. 23, 1976, 76-2 CPD ¶ 445.

The protest is dismissed.

Harry R. Van Cleve

Harry R. Van Cleve
Acting General Counsel