

**DECISION**



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

van Schaik

29648

**FILE:** B-216572

**DATE:** October 22, 1984

**MATTER OF:** Sturm Craft Co., Inc.

**DIGEST:**

Protest filed with GAO more than 10 working days after initial adverse action by contracting agency on protest is dismissed as untimely. Protester's continued pursuit of protest with contracting agency does not change this result.

Sturm Craft Co., Inc. (Sturm), protests the award of a contract to Fall River Electrical Associates Inc. (Fall River) under the Department of the Navy (Navy) invitation for bids (IFB) No. N62472-84-B-1607.

By letters dated May 31 and June 13, 1984, Sturm protested to the contracting officer that the Navy had improperly refused to consider Sturm's bid price modification that was received after bid opening. According to Sturm, had the modification been considered, its bid would have been low. By letter dated July 24, 1984, the Navy informed Sturm of the award to Fall River and denied the protest. Sturm again protested to the Navy by letter dated July 31, 1984. Subsequently, Sturm protested to our Office by letter dated September 24, 1984.

Under our Bid Protest Procedures, once a protest has been filed with the contracting agency, any subsequent protest to our Office must be filed within 10 working days after the protester receives actual or constructive notice of initial adverse agency action on the protest. 4 C.F.R. § 21.2(a) (1983); Stark Van Lines of Columbus, Inc., B-211361, May 6, 1983, 83-1 C.P.D. ¶ 476. The fact that a protester continues to pursue its protest with the contracting agency does not alter this rule. Id. Consequently, assuming Sturm filed its initial protest with the contracting agency timely, since Sturm did not file its protest with our Office within 10 working days after receipt of the contracting officer's July 24, 1984, denial (initial adverse agency action), the protest to our Office is untimely and will not be considered on the merits. Id.

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The protest is dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
General Counsel