

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

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**FILE:** B-216532**DATE:** October 23, 1984**MATTER OF:** Aero Tube and Connector Company**DIGEST:**

1. Protest filed in GAO more than 10 working days after protester says it obtained information upon which its protest is based is untimely under GAO Bid Protest Procedures.
2. Protest against failure to set aside procurement exclusively for small business concerns is untimely under GAO Bid Protest Procedures since protest was filed after bid opening date.

Aero Tube and Connector Company (Aero) protests the award of a contract to Hydraflow under invitation for bids (IFB) No. DLA700-84-B-1106 issued by the Defense Logistics Agency (DLA). Aero states that the IFB solicited prices for a particular stock number item, but that DLA improperly awarded the contract for another unsolicited stock number item. Aero also protests DLA's failure to set aside exclusively for small business participation IFB No. DLA700-84-B-1107.

We dismiss the protests as untimely.

Aero states that on August 17, 1984, it learned of the award under IFB DLA700-84-B-1106. Under our Bid Protest Procedures, 4 C.F.R. § 21.2(b)(2) (1984), protests must be filed (received) in our Office not later than 10 working days after the basis of protest is known. Since Aero's protest concerning this matter was received in this Office on September 24, 1984 (more than a month after the protester states that it received the information upon which its protest is based), the protest is untimely and will not be considered on the merits. Holmes Ambulance Service Corp., B-213743, Feb. 2, 1984, 84-1 C.P.D. ¶ 143.

Concerning Aero's protest that IFB DLA700-84-B-1107 should have been set aside exclusively for small business participation, Aero states that DLA improperly issued the IFB as a 50-percent small business set-aside. Protests based upon alleged improprieties apparent on the face of the IFB, such as here, must be filed prior to bid opening. 4 C.F.R. § 21.2(b)(1) (1984). Bid opening occurred on

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August 28, 1984. Consequently, Aero's protest concerning this alleged impropriety received by this Office after the August 28, 1984, bid opening date is untimely. Spacesaver Systems, Inc., B-211817, Aug. 29, 1983, 83-2 C.P.D. ¶ 272.

Protests dismissed.

*Harry R. Van Cleve*

Harry R. Van Cleve  
General Counsel