

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**Halperin
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30540**FILE:** B-217047**DATE:** February 27, 1985**MATTER OF:** Dakota Woodworks**DIGEST:**

Where initial protest is untimely filed with the contracting agency (more than 10 working days after protest basis is known), subsequent protest to GAO will not be considered even though it was filed within 10 working days of the agency denial of the protester's initial protest.

Dakota woodworks (Dakota) protests the rejection of its bid as nonresponsive under invitation for bids (IFB) No. F32605-84-B-0059, issued by the Contracting Division, Grand Forks Air Force Base (Air Force), for the repair, alteration and renovation of the 319th Bomb Wing Headquarters, building 607. Dakota's bid was rejected because it was considered to be materially unbalanced.

We dismiss the protest.

The Air Force states that on October 4, 1984, a representative of Dakota took delivery of a letter of the same date from the Air Force detailing the reasons for the rejection of Dakota's bid. On October 22, 1984, Dakota filed a protest with the Air Force against the rejection of its bid. The Air Force denied Dakota's protest by letter dated October 29, 1984, and Dakota protested here on November 6, 1984.

Our Bid Protest Procedures require that protests be received in our Office or the contracting agency within 10 working days after the basis of the protest is known. 4 C.F.R. § 21.2(b)(2) (1984); Schlegel Associates, Inc., B-213739, June 28, 1984, 84-1 C.P.D. ¶ 688.

A protest initially filed with the contracting agency and subsequently filed with our Office within 10 days of the protester's notification of the initial adverse agency action will be considered only if the initial protest to the agency was filed in accordance with the time limits set forth in § 21.2(b) of our Bid Protest Procedures, outlined

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in pertinent part above. See 4 C.F.R. § 21.2(a); Century Metal Parts Corp., B-194421, Apr. 17, 1979, 79-1 C.P.D. ¶ 272. Although Dakota's protest to our Office was filed within 10 working days of the Air Force's denial of its protest, Dakota's initial protest was not filed with the Air Force within the time limits outlined above, a prerequisite to our consideration of the protest before us. Dakota was notified on October 4, 1984, that its bid was rejected and Dakota did not protest to the Air Force until October 22, 1984, more than 10 working days after Dakota learned of the basis of its protest. The fact that Dakota protests the rejection of its bid in the context of the Air Force's denial of its protest does not change the fact that the grounds of the protest were and are untimely presented for resolution. Our Bid Protest Procedures may not be waived by the actions of a procuring agency such as considering an untimely protest. See Evans Inc.--Request for Reconsideration, B-213289.3, Feb. 27, 1984, 84-1 C.P.D. ¶ 240; Century Metal Parts Corp., B-194421, supra.

The protest is dismissed.



Robert M. Strong
Deputy Associate General Counsel