



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Adrian Supply Company--Reconsideration

File: B-225472.2

Date: December 9, 1986

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### DIGEST

The General Accounting Office (GAO) affirms its dismissal of a protest that was filed more than 10 working days after protester's formal notification of the contracting officer's rejection of its offer as technically unacceptable, as protesters are charged with constructive knowledge of GAO's Bid Protest Regulations and time consumed to make inquiries about them does not provide a basis for not meeting the regulatory requirement for filing a protest within 10 days of when the basis for protest is known.

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### DECISION

Adrian Supply Company requests that we reconsider our November 10, 1986, dismissal of its protest of an award under solicitation No. WG5100-6-00015, issued by the Department of Commerce's National Oceanic and Atmospheric Administration (NOAA) for single-phase and three-phase AC power conditioners.

We affirm our finding that Adrian's protest was untimely.

Adrian's initial letter to our Office, which we received on November 10, indicated that it had been notified by NOAA by letter dated October 8 that its offer had been determined to be technically unacceptable for failure to meet paragraph B.1.c of the Statement of Work. Adrian disagrees that its offer does not comply.

We dismissed Adrian's protest under our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1986), which state that protests must be filed within 10 working days of the date the basis for protest was first known or should have been known. The protest to our Office was untimely in that it should have been filed within 10 days of Adrian's receipt of the contracting officer's letter of October 8. As noted above, Adrian did not protest to our Office until November 10.

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In its request for reconsideration, Adrian states that it responded within 10 working days from receipt of the letter from NOAA and from receipt of protest instructions from our Office. The record does not show when Adrian received the October 8 letter, but it is reasonable to expect that a letter will be received within 1 calendar week after its issuance. See Windward Moving & Storage Co., Inc.--Reconsideration, B-213885.3, Sept. 17, 1984, 84-2 CPD ¶ 296.

As for receipt of instructions as to how to protest, our regulations are published in the Federal Register, and protesters are charged with constructive notice of their contents. International Development Institute, 64 Comp. Gen. 259 (1985), 85-1 CPD ¶ 179; Engineers International, Inc.--Reconsideration, B-219760.2, Aug. 23, 1985, 85-2 CPD ¶ 225. Thus, the fact that a protester is not familiar with their requirements is not relevant to the timeliness of a protest. Therefore, the date of Adrian's "receipt of protest instructions" is not relevant since Adrian's lack of actual knowledge of our regulations does not excuse the requirement for protesting within 10 days of learning of the basis of protest.

We affirm the dismissal of Adrian's protest.

*for Seymour Efron*  
Harcy R. Van Cleve  
General Counsel