



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Morey Machinery Co., Inc.
File: B-235166
Date: May 16, 1989

DIGEST

Where protester waits 8 months to receive the procuring agency's final decision on its agency-level protest, before filing a protest at the General Accounting Office and in the interim performance is completed under the contract, the protest is untimely because the protester failed to diligently pursue the protest.

DECISION

Morey Machinery Co., Inc., protests the award of a contract to Davis-Taylor-Forster, under request for proposals No. N00600-88-C-1590, issued by the Naval Regional Contracting Center, Washington, D.C., for milling machines. Morey contends that Forster's machine did not meet the IFB's Buy American Act requirement and that the Navy improperly amended the IFB's requirements after the receipt of initial proposals.

We dismiss the protest as untimely.

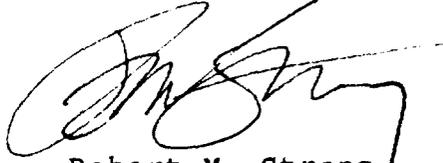
The award was made to Forster on July 27, 1988, and the Navy advises that Forster has completed delivery under the contract. Morey's protest was filed in our Office on April 12, 1989. Apparently, Morey did not protest the award to Forster until after it received a final resolution of its agency-level protest, which the Navy issued on March 29. Morey filed the agency-level protest on August 9, 1988.

When a protest initially has been filed with the agency, the protester is not permitted to delay filing a subsequent protest with our Office until it eventually receives a final decision on the merits from the agency. The protester may wait only a reasonable length of time for an agency's response before filing a protest here. We have held that where a protest is filed with an agency and more than

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4 months elapses without any response, the protest to our Office is untimely because the protester did not diligently pursue the protest. See REACT Corp., B-219642, Aug. 22, 1985, 85-2 CPD ¶ 215; Experimental Pathology Laboratories, Inc., B-211282, July 28, 1983, 83-2 CPD ¶ 136. Accordingly, we find Morey's protest to be untimely for lack of diligent pursuit, since it was filed approximately 8 months after the agency-level protest.

The protest is dismissed.

A handwritten signature in black ink, appearing to read 'R. Strong', written over a horizontal line.

Robert M. Strong
Associate General Counsel