



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Volumetrics, Inc.

**File:** B-240284

**Date:** September 25, 1990

---

James Carp and Martin D. Conway, for the protester.  
Charles J. McManus, Esq., Maryann L. Grodin, Esq., and  
Thomas G. Robisch, Esq., Department of the Navy, for the  
agency.

Jacqueline Maeder, Esq., Office of the General Counsel, GAO,  
participated in the preparation of the decision.

---

### DIGEST

Letter to agency stating future intent to submit a protest concerning the agency's rejection of a proposal as technically unacceptable does not constitute a protest and subsequent protest filed with General Accounting Office more than 10 working days after the basis for protest was known is dismissed as untimely.

---

### DECISION

Volumetrics, Inc. protests the award of contract line item number (CLIN) 0002 to Ruska Instrument Corporation under request for proposals (RFP) No. N00164-89-R-0595 issued by the Department of the Navy for the acquisition of various quantities of calibration equipment. Volumetrics asserts that the agency improperly rejected Volumetrics' proposal as technically unacceptable.

We dismiss the protest as untimely.

The solicitation, which included seven CLINs and provided for multiple awards, was issued on June 19, 1989, and called for brand-name or equal products. By the July 19 closing date the agency received three offers, including Volumetrics' offer on only CLIN 0002.

By letter dated May 24, 1990, the agency informed Volumetrics that it did not receive an award because its offer was determined to be technically unacceptable, and that award for CLIN 0002 had been made to Ruska. On May 31, Volumetrics sent a letter to the contracting officer in

which Volumetrics "questioned" the validity of the rejection because it believed its product met all the technical requirements, and stated that Volumetrics "[w]ill therefore submit a protest in accordance with [Federal Acquisition Regulation] FAR [§] 52.233-2." The agency did not respond to this letter and, by letter dated June 15, postmarked June 26, and received in our Office on July 2, Volumetrics protested that award to Ruska was improper.

Under our Bid Protest Regulations, protests must be filed not later than 10 days after the basis of protest is known, or should have been known, whichever is earlier. 4 C.F.R. § 21.2(a)(2) (1990). The expression of an intent to file a protest of an award is not the same as actually filing a protest. Roanwell Corp., B-235792, July 20, 1989, 89-2 CPD ¶ 70. Volumetrics' letter of May 31 to the contracting officer did not constitute a protest since it explicitly announced Volumetrics' intent to submit a future protest. Volumetrics itself has indicated that its first protest was its subsequent letter to our Office dated June 15. However, the protest is untimely since it was filed on July 2, more than 1 month after May 31, the date on which Volumetrics' own correspondence to the agency shows that Volumetrics knew its basis of protest. Id.

The protest is dismissed.



Paul Lieberman  
Deputy Assistant General Counsel