



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Birch & Davis International, Inc.

**File:** B-241351.2

**Date:** October 26, 1990

Brian P. Hochheimer, Esq., for the protester.  
Ralph O. White, Esq., Office of the General Counsel, GAO,  
participated in the preparation of the decision.

### DIGEST

Contention that protester was improperly excluded from competitive range is untimely when filed more than 10 days after receipt of competitive range notice from the agency.

### DECISION

Birch & Davis International, Inc. protests its exclusion from the competitive range by the Agency for International Development under request for proposals (RFP) No. W/R-90-009.

We dismiss the protest as untimely because it was filed more than 10 days after the protester knew, or should have known, of the basis for its protest.

After submitting its best and final offer in response to the RFP, Birch & Davis received notice on October 2, 1990, that its proposal had not been included within the competitive range. In its protest to our Office, filed October 24, Birch & Davis claims that AID improperly abandoned the evaluation scheme in excluding Birch and Davis' proposal from the competitive range.

Our Bid Protest Regulations contain strict rules requiring timely submission of protests. Under these rules, protests not based upon alleged improprieties in a solicitation must be filed no later than 10 working days after the protester knew, or should have known, of the basis for protest, whichever is earlier. 4 C.F.R. § 21.2(a)(2) (1990). Although Birch & Davis claims it was not aware of the reasons for its exclusion from the competitive range when it received the October 2 notice, it does not point to any information obtained after its receipt of that notice that would form the basis for a protest. Accordingly, we conclude that Birch & Davis was required to file its protest within 10 working days of

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October 2. Since it was not filed until October 24, the protest is untimely.

The protest is dismissed.

*Christine S. Melody*  
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Assistant General Counsel