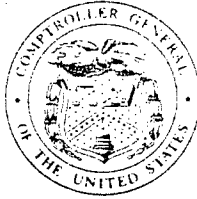


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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-202171

DATE: May 6, 1981

MATTER OF: *[Request for]* TSI Incorporated - Reconsideration]

DIGEST:

Fact that protester continued to pursue protest with contracting agency after receipt of initial adverse agency action does not affect 10-day requirement for timeliness of protest filed with our Office.

In our decision in TSI Incorporated, B-202171, March 4, 1981, 81-1 CPD 166, we held that the TSI Incorporated (TSI) protest against the award of Naval Research Laboratory (Laboratory) contract No. NO0173-80-C-0567 was untimely filed with our Office and, consequently, not for our consideration. TSI had received the contracting agency denial of the protest, which it had originally filed with the agency, on January 13. The TSI protest letter to our Office was received on February 17, more than 10 working days after TSI learned of the agency protest denial.

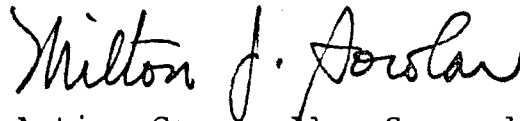
TSI requests that we reconsider our decision. TSI states that in the interest of cost savings to the Government, it attempted to reach a solution of its protest by continuing to work, after January 13, through the Laboratory. The possibility of requesting the opinion of a disinterested third party was discussed, and the Laboratory advised that this possibility would be considered. It was not until February 12 that TSI was advised by the Laboratory that the original evaluation of proposals was considered to have been adequate, that obtaining the opinion of a third party was not considered necessary, and that the original denial of the protest was the contracting officer's final decision. Accordingly, TSI believes that February 12 should be considered the date from which the 10 working days is computed in determining the timeliness of its protest to our Office.

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We disagree with the TSI position and affirm our original decision. While TSI may have continued pursuing its protest with the agency after the initial (and controlling) adverse agency action, this does not affect the 10-day requirement for a timely filing with our Office. Technics, B-190984, March 9, 1978, 78-1 CPD 188; Westwood Pharmaceuticals Inc., B-191443, March 31, 1978, 78-1 CPD 261, affirmed May 23, 1978, 78-1 CPD 392. Thus, the date upon which TSI learned of the initial adverse agency action, January 13, is controlling.

Accordingly, our decision of March 4 is affirmed.

A handwritten signature in cursive script that reads "Milton J. Fowler".

Acting Comptroller General
of the United States