

DECISION



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

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FILE: B-183976

DATE: June 5, 1975

MATTER OF: CSH Contractors, Inc.

DIGEST:

Protest against agency determination to waive as minor informality awardee's failure to include Standard Form 19-B with its bid is untimely as § 20.2(a) of Interim Bid Protest Procedures and Standards requires that protests initially filed with contracting agency be filed with General Accounting Office within 5 days of notification of adverse agency action.

This is a protest against an award of a contract made to Asphalt Construction, Inc. (Asphalt), under invitation for bids 88-75-HEW-OS, issued by the Department of Health, Education, and Welfare (HEW). CSH Contractors, Inc. (CSH), contends that HEW improperly determined to waive as a minor informality Asphalt's failure to include Standard Form 19-B, entitled "Representations and Certifications" with its bid.

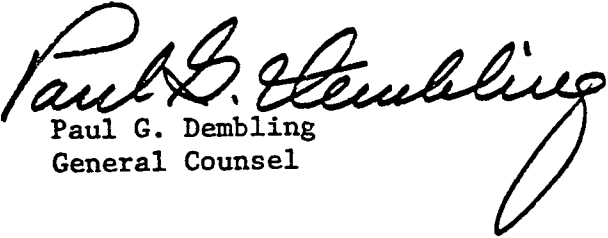
Under § 20.2(a) of our Interim Bid Protest Procedures and Standards, published at 4 Code of Federal Regulations, part 20 (1974), a protest that has been timely filed initially with the contracting agency must subsequently be filed within 5 days of notification of adverse agency action with our Office in order to be considered. Adverse agency action has been construed by our Office to mean initial adverse agency action. See 52 Comp. Gen. 20 (1972). In the instant protest, HEW denied CSH's initial protest by letter dated May 1, 1975, received by CSH on May 5, 1975. However, CSH did not formally protest HEW's May 1, 1975, action until May 22, 1975, the date our Office received CSH's May 16, 1975, letter. Accordingly, as this letter of protest was not received within 5 days of HEW's adverse agency action, the protest is untimely and will not be considered on its merits.

Although we recognize that by letter dated May 15, 1975, our Bid Protest Control Unit inadvertently requested that CSH

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formalize its protest, this action was not prejudicial to CSH as the deadline for the filing of its protest to our Office (May 12, 1975) had already passed.

For informational purposes, we held in a recent decision Edward E. Davis Contracting, Inc., B-182484, January 29, 1975, that the failure to complete a portion of Standard Form 19-B was properly waived as a minor informality.


Paul G. Dembling
General Counsel