

DOCUMENT RESUME

03322 - [A2413546]

[Untimely Bid Protest]- B-189607. August 24, 1977. 2 pp.

Decision re: Aardvark Drayage Co.; by Milton Socolar (for Paul G. Deabling, General Counsel).

Issue Area: Federal Procurement of Goods and Services (1900).

Contact: Office of the General Counsel: Procurement Law I.

Budget Function: National Defense: Department of Defense -

Procurement & Contracts (058).

Organization Concerned: Department of the Army: Army Health Services Command, Fort Sam Houston, TX.

Authority: 4 C.F.R. 20.2(b)(2). 40 Fed. Reg. 17979. B-186719 (1975).

The protester claimed that their bid was improperly rejected for failure to furnish a bond. The protest was untimely and not for consideration on its merits since the basis for the protest was known more than 10 days prior to the date the protest was filed. While the protest may have been untimely filed because of the protester's lack of actual knowledge of procedures, the protester was charged with constructive notice of the procedures, which were published in the Federal Register. (Author/SC)

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**DECISION**



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

**FILE:** B-189607

**DATE:** August 24, 1977

**MATTER OF:** Aardvark Drayage Co.

**DIGEST:**

1. Protest is untimely and not for consideration on merits when basis for protest, rejection of bid, was known more than 10 days prior to protest filed on July 14, 1977.
2. While protest may have been untimely filed because of protester's lack of actual knowledge of procedures, protester is charged with constructive notice thereof because procedures are published in Federal Register.

The Aardvark Drayage Co. (Aardvark) has protested the award of a contract to another bidder under solicitation No. DAKF49-77-B-0003 for the furnishing of moving and relocating services required by Headquarters, United States Army Health Services Command, Fort Sam Houston, Texas.

Aardvark's protest, filed with our Office on July 14, 1977, sets forth Aardvark's claim that its bid was improperly rejected for failure to furnish a bond. We have been advised that a notice of rejection of Aardvark's bid was mailed to Aardvark on May 23, 1977, and that the contract was awarded to another bidder on June 6, 1977. Aardvark has not denied receipt of the notice of rejection and, in fact, has acknowledged that its protest is "late."

Our Bid Protest Procedures provide that protests "shall be filed not later than 10 [working] days after the basis for protest is known or should have been known, whichever is earlier." 4 C.F.R. § 20.2(b)(2) (1976). It is clear from the record that Aardvark was aware of the basis for its protest more than 10 days before its protest was filed with our Office on July 14, 1977, and its protest is therefore untimely.

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Further, while Aardvark acknowledges that its protest is untimely, it states that it did not know it was possible to protest until July 14, 1977. Since our Bid Protest Procedures have been published in the Federal Register (40 Fed. Reg. 17979, April 24, 1975), protesters are charged with constructive notice of their provisions. Power Conversion, Inc., B-186719, September 20, 1976, 76-2 CPD 256.

Aardvark's protest, therefore, is untimely and not for consideration on the merits.

*for Milton Fowler*  
Paul G. Dembling  
General Counsel