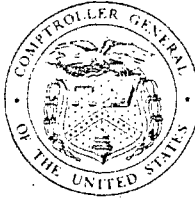


**DECISION**



11278 PLCC  
**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

FILE:

B-195678 D 2685

DATE: August 31, 1979

MATTER OF:

Danfoss Inc.

DIGEST:

*[Protest Alleging Awardee's Bid Was Nonresponsive]*  
Protest filed more than 10 working days after initial adverse agency action (agency denial of protest) is untimely and not for consideration.

Danfoss Inc. protests the award of a contract by the Veterans Administration (VA) to A.T. Scanzillo Contracting Co. (A.T.) under invitation for bids (IFB) No. 525-33-79, project No. 79-122. D 2686

Danfoss contends that A.T.'s bid is nonresponsive. By telegram dated June 26, 1979, Danfoss filed an initial protest with the VA. The VA notified Danfoss by letter dated July 2 (received July 6) that its protest was denied. Danfoss filed an appeal with the VA by letter dated July 9. Danfoss subsequently filed a protest with our Office on August 2.

Section 20.2(a) of our Bid Protest Procedures, 4 C.F.R. part 20 (1979), urges protesters to seek resolution of their complaints initially with the contracting agency. If a protest is filed initially with the contracting agency, our Office will consider a subsequent protest only if it is filed here within 10 working days of initial adverse agency action and the protest was filed in accordance with our timeliness standards.

The VA's July 2 letter denying the protest is the initial adverse agency action. Since Danfoss filed its subsequent protest with our Office on August 2, more than 10 working days after receipt of the letter constituting initial adverse

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agency action, the protest is untimely and not for consideration.

Even though Danfoss continued to pursue its protest with the agency, we have held that it is incumbent upon the protester to file its appeal with GAO rather than continue to pursue the matter with the contracting agency or run the risk of the protest being determined untimely. Kenney Refrigeration, B-191026, January 31, 1978, 78-1 CPD 87. The protest is dismissed.

*Harry R. Dan Cleave*  
for Milton J. Socolar  
General Counsel