## DECISION



## THE COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D.C. 20548

FILE:

B-197674

DATE: February 19, 1980

DLG 03367

MATTER OF:

Saxon Business Products, Inc.

Protest of Purchase Order Cancellation

DIGEST:

Protest is untimely and not for consideration on merits when basis for protest, alleged improper price justification, was known more than 10 days prior to date of protest to agency and/or GAO.

Saxon Business Products, Inc. (Saxon), protests the Department of Agriculture, Food and Nutrition Agriculture), cancellation of purchase order No. 43-3198-0-88 for six Saxon copiers. The Saxon copiers are to be replaced by Savin copiers. Both copiers are on the Federal Supply Schedule (FSS) and the gist of Saxon's protest is that the appropriate FSS regulations and procedures were not applied in making the determination to use Savin copiers in lieu of Saxon copiers; specifically, Saxon challenges Agriculture's price justification.

Our Bid Protest Procedures require that "\* \* \* bid protests shall be filed not later than 10 days after the basis for protest is known or should have been known, whichever is earlier." 4 C.F.R. § 20.2(b) (2) (1979).

Saxon received the Agriculture price justification, which forms the basis of its protest, on January 8, 1980. Saxon wrote Agriculture on January 24, 1980, pointing out discrepancies in the price justification and advising that Saxon intended to file a protest with our Office. We received Saxon's protest on February 4, 1980. Since Saxon received the information which formed the basis of its protest on January 8, 1980, its protest had to be received, by either Agriculture or GAO, prior to January 22, 1980, in order to be timely.

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Accordingly, Saxon's protest is untimely and will not be considered on the merits.

Harry R. Van Cleve Milton J. Socolar General Counsel