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# DECISION



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

FILE: B-197042

DATE March 24, 1980

MATTER OF: Data Communication, Inc. *DLG 4160*

DIGEST: *[Protest Against Contract Award]*  
*CNG00670*  
*AGC00020*

Protest filed with GAO more than 10 days after notification of initial adverse agency action (denial of protest to agency), allowing reasonable time for receipt, is untimely and not for consideration on merits.

Data Communication, Inc. (Data), protests the award of a contract to RCA Service Company by the Department of the Army (Army) under solicitation No. DABT60-79-R-0024 for individual-paced training courses. Award was made on September 26, 1979.

Data contends that "insufficient grounds exist to technically disqualify [its proposal]." In addition, Data states that its proposal was more than \$100,000 lower than RCA's proposal.

Data initially filed a protest against the award with the Army, after a September 28, 1979, debriefing, by letter dated October 3, 1979. By letter dated November 14, 1979, the Army denied Data's protest. Subsequently, by letter dated November 29, 1979, Data filed a protest with our Office. This letter was received by our Office on December 5, 1979.

Sections 20.2(a) and (b)(3) of our Bid Protest Procedures, 4 C.F.R. part 20 (1979), state in pertinent part:

"Protesters are urged to seek resolution of their complaints initially with the contracting agency. If a protest has been filed initially with the contracting agency, any subsequent protest to the General Accounting

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Office filed within 10 [working] days of formal notification of or actual or constructive knowledge of initial adverse agency action will be considered \* \* \*

\* \* \* \* \*

"The term 'filed' as used in [section 20.2] means receipt \* \* \* in the General Accounting Office \* \* \*. Protesters are cautioned that protests should be transmitted or delivered in the manner which will assure earliest receipt. \* \* \*"

Since the November 14 letter was the initial adverse agency action (denial of the protest), and allowing a reasonable time for Data's receipt of that letter, it is clear that Data's protest to our Office, received on December 5, 1979, 14 working days after the date of the letter, was not filed within the 10-working-day requirement and, therefore, is untimely and not for consideration on the merits.

Accordingly, the protest is dismissed.

Milton J. Socolar  
General Counsel