

13822 PL-7

DECISION



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

[Protest of Department of Agriculture Contract Award]

FILE: B-198249

DATE: May 23, 1980

MATTER OF: GTCO Corporation
CNG02178

DIGEST:

1. Protest filed with GAO more than 10 working days after protester had actual knowledge of initial adverse agency action on its protest to agency is untimely filed with GAO and is, therefore, not for consideration.
2. Where protest is untimely, request for conference is denied.

GTCO Corporation (GTCO) protests the award of a contract to Numonics Corporation (Numonics) under invitation for bids No. ASCS-4-1-80DC, issued by the Department of Agriculture (Agriculture).

AGC00042

On March 6, 1980, GTCO was informed by Agriculture that award was made to Numonics. At that time, GTCO, by telegram, protested to the agency. On March 10, Agriculture responded to GTCO's telegram by calling GTCO's president. Agriculture advises that during the telephone conversation, GTCO was advised that "contract performance would not be suspended or cancelled" and "that Numonics Corporation met the specifications of the solicitation and was low bidder and contract award was made on that basis." GTCO filed a protest with our Office on March 26, 1980.

Our Bid Protest Procedures provide in part that:

"If a protest has been filed initially with the contracting agency, any subsequent protest to the General Accounting Office [must be] filed within 10 days of * * * actual or

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constructive knowledge of
initial adverse agency action
* * *." 4 C.F.R. § 20.2(a)
(1980). (Emphasis added.)

On March 10, 1980, GTCO had actual knowledge of the initial adverse agency action, award to Numonics would not be suspended or cancelled because Numonics met the specifications. The protest filed with our Office on March 26, 1980, was filed more than 10 working days after GTCO had knowledge of the initial adverse agency action, and it is, consequently, untimely and not for consideration on the merits.

In view of the above, GTCO's request for a conference is denied. AAI Corporation, B-192346,
November 3, 1978, 78-2 CPD 320.

Harry R. Jan Cline

for Milton J. Socolar
General Counsel