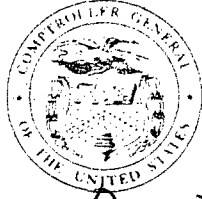


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DECISION



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

[Untimely Protest of Department of Energy Contract Award]

FILE: B-201957

DATE: February 19, 1981

MATTER OF: Kewaunee Scientific Equipment Corporation

DIGEST:

Protest received in GAO more than 10 days after protester had actual knowledge of initial adverse agency action, award to another bidder, is untimely and will not be considered.

Kewaunee Scientific Equipment Corporation (Kewaunee) protests the decision of the Department of Energy (DOE) to award a contract for laboratory equipment to Fisher Scientific. Kewaunee alleges that it was the low bidder under the DOE invitation for bids (IFB) No. DE-FB21-81MC16234.

Kewaunee initially protested to the agency in a telex dated January 2, 1981. In a telex dated January 21, 1981, from Kewaunee to DOE, Kewaunee states, in part, that at a meeting with representatives from DOE on January 6, 1981, representatives of Kewaunee were told that the award "had been made" to Fisher Scientific because it was on a General Services Administration (GSA) schedule. It appears that the IFB was canceled and the laboratory equipment was procured under a GSA contract.

Our bid protest procedures, 4 C.F.R. § 20.2(a) (1980), provide that if a protest has been filed initially with the contracting agency, any subsequent protest to the GAO must be filed within 10 working days of formal notification of or actual or constructive knowledge of initial adverse agency action to be considered timely. Because Kewaunee's protest was not filed until January 29, or about 17 days after January 6 when it received actual knowledge of adverse agency action, it is untimely. Columbia Reporting Company, Inc., B-200344, November 28, 1980, 80-2 CPD 405.

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This protest is dismissed.

Harry R. Van Cleave
For Milton J. Socolar
General Counsel