

Alkon, P. J.

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DECISION



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

[Untimely Protest of Army Contract Award]

FILE: B-202195

DATE: March 17, 1981

MATTER OF: Ship Analytics

DIGEST:

Protest filed with GAO more than 10 working days after protester receives notification of initial adverse action (denial of its protest filed with contracting agency) is untimely and will not be considered on its merit.

Ship Analytics protests the award of a contract under solicitation No. DACW39-80-R-0028 by the Department of the Army to Hydronautics, Inc. For the reasons stated below, we find the protest to be untimely filed and therefore not for consideration on its merits.

Ship Analytics initially protested the September 30, 1980 award of the contract in an October 3, 1980 letter to the contracting officer. In its letter, the protester asserted that best and final offers were improperly solicited verbally without any subsequent written confirmation, and that procuring officials failed to provide "equal consideration and information" to all competitors. When the agency received the protest, it requested clarification from Ship Analytics. Ship Analytics promptly answered with a letter reiterating its previous allegations and requesting additional information under the Freedom of Information Act. The Army sent the requested information to the protester on October 30, 1980, and Ship Analytics responded with a November 7, 1980 letter detailing its grounds for protest.

In a November 21, 1980 letter, the agency denied the protest. On January 12, 1981, approximately two months after denial of its protest filed with the contracting agency, we received a copy of a December 19, 1980 Ship Analytics letter, addressed to the Army, "appealing" the November 21, 1980 agency denial to both the head of the Department of the Army and to our Office.

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We believe the protest to be untimely. Our Bid Protest Procedures state that we will consider a protest that has initially been timely filed with the contracting agency only if it is filed in our Office within 10 working days of actual or constructive knowledge of initial adverse agency action on the protest. 4 C.F.R. § 20.2(a)(1980). Although Ship Analytics' initial protest to the agency was denied on November 21, 1980, its "protest" to our Office was not filed until January 12, 1981, long after the 10 day time limit. Columbia Reporting Company Inc., B-200344, November 28, 1980, 80-2 CPD 405.

Accordingly, the protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel