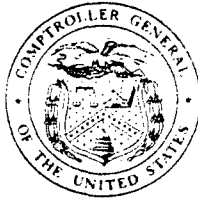


DECISION



174333
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-202391

DATE: March 23, 1981

MATTER OF: Sabin Metal Corporation

[Untimely Protest of Contract Award]

DIGEST:

Protest filed with GAO more than 10 days after adverse agency action (denial of protest to agency) is untimely and not for consideration by our Office.

Sabin Metal Corporation (Sabin) protests the award of a contract under solicitation No. DLA 700-80-B-0015 issued by the Defense Logistics Agency (DLA).

Sabin states that award was made but was soon canceled when the low bidder could not perform as required and the contract was then awarded to Johnson Matthey Co. (Johnson). Sabin, a small business, contends that it has the facilities and staff to perform the contract, its' bid was lower than Johnson's, and Johnson is not a small business.

Sabin initially protested to the DLA by letter dated December 31, 1980. DLA denied the protest by letter dated January 13, 1981, stating that only Johnson had facilities for processing hazardous materials. By letter dated February 11, 1981, Sabin protested to the Armed Services Board of Contract Appeals which subsequently forwarded Sabin's letter to our Office on March 4, 1981.

Section 20.2(a) of our Bid Protest Procedures, 4 C.F.R. part 20 (1980), states 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

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contracting agency, any subsequent protest to the General Accounting Office filed within 10 days of formal notification of or actual or constructive knowledge of initial adverse agency action will be considered * * *

Sabin knew the basis for its protest when it received DLA's letter dated January 13. Sabin's protest received in our Office on March 4, 1981, more than 10 days after notification of initial adverse agency action, is untimely and not for consideration.

The protest should have been filed with our Office, rather than with the Armed Services Board of Contract Appeals, as Sabin was on constructive notice of our Bid Protest Procedures which are published in the Code of Federal Regulations, 4 C.F.R. part 20 (1980), and include the time limits set for filing a protest. Gold Standard Corporation, B-193474, January 22, 1979, 79-1 CPD 41.

The protest is dismissed.

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