

DECISION



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

FILE: B-203227 DATE: June 16, 1981

MATTER OF: Institute for Survey Research at
Temple University

DIGEST:

Protest filed with GAO more than 10 days after protester learns of initial adverse agency action on protest filed with agency is dismissed as untimely.

The Institute for Survey Research at Temple University (Temple) protests the rejection of its proposal by the National Institute on Drug Abuse (NIDA) under request for proposals (RFP) No. 271-81-1702.

The RFP solicited offers for a project entitled "National Survey on Drug Abuse." NIDA rejected Temple's proposal as late because it was not received until 3 days after the date established for the receipt of initial proposals. Temple, however, argues that its proposal was late due to Government mishandling after delivery to the NIDA facility.

We dismiss the protest as untimely.

Proposals were due by 4 p.m. on March 30, 1981. Temple's proposal was delivered by commercial carrier to the NIDA loading dock, not the room designated in the RFP, at 3:50 p.m. on March 30. The proposal was not delivered to the room designated in the RFP until April 2, 1981.

Temple's initial protest letter was filed in our Office on May 8, 1981. Although all the specific dates were not set out in this letter, it appeared from the face of the letter that Temple's protest was untimely. The agency, therefore, provided us on an informal basis the following information:

[Protest of Proposal (Rejection for Lateness)]

1. On April 1, 1981, a Temple representative telephoned NIDA to ask if Temple's proposal had been received and was told that it had not been received;
2. On April 2, 1981, Temple's proposal was received and, after a discussion among the contracting officials, Temple was notified by telephone that its proposal was late and would not be considered; and finally,
3. On April 15, 1981, Temple's representatives met with the contracting officials to request that the agency reconsider its decision, but once again they were told that the proposal was late and would not be considered.

Under our Bid Protest Procedures, when a protest is initially filed with the contracting agency, any subsequent protest to our Office must be filed within 10 working days of the protester's knowledge of initial adverse agency action on its protest. 4 C.F.R. § 20.2(a) (1980). Thus, viewing Temple's meeting with NIDA on April 15, 1981, as a protest initially filed with the contracting agency, NIDA's refusal on that date to reconsider its decision to reject Temple's proposal constituted initial adverse agency action. Temple then had 10 working days to file a protest with our Office. In light of this, Temple's protest of May 8, 1981, is clearly untimely and not for consideration on the merits.

Protest dismissed.

Harry R. Van Cleve

Harry R. Van Cleve
Acting General Counsel