

DECISION

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

FILE: B-209043

DATE: October 4, 1982

MATTER OF: Kirby Center

DIGEST:

Protest is untimely where not filed with GAO within ten working days of notification of initial adverse action on protest filed with agency.

Kirby Center protests the General Services Administration's (GSA) award of a contract to Kari-Vac, Inc. under solicitation No. 9FCB-OLK-A-A0450/81 for floor polishing and scrubbing machines, carpet shampoos and related equipment. We dismiss the protest.

Kirby contends that Kari-Vac's bid should have been found nonresponsive because it indicated under the "Production and Inspection Points" clause of the solicitation that it was the manufacturer of two items which are in fact manufactured by another firm. According to Kirby, Kari-Vac also falsely certified that it was a manufacturer of all the supplies offered. We consider the protest to be untimely filed.

Our Bid Protest Procedures provide that where a protest has been filed initially with the contracting agency, any subsequent protest to this Office must be filed within ten working days of actual or constructive knowledge of initial adverse agency action. 4 C.F.R. § 21.2(a) (1982). Here, Kirby filed its protest initially with GSA, and the agency denied the protest by letter dated July 28, 1982. Kirby did not file its protest with GAO, however, until September 14, 1982. Consequently, the protest is untimely.

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Although it appears that after GSA's denial of its protest, Kirby may have continued to pursue the matter with the agency through a member of Congress, this does not affect the ten-day requirement for a timely filing with this Office. See TSI Incorporated-Reconsideration, B-202171, May 6, 1981, 81-1 CPD 357.

The protest is dismissed.

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