

DECISION



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

FILE: B-209236

DATE: October 26, 1982

MATTER OF: Jarrell-Ash Division, Fisher Scientific
Company

DIGEST:

Protest received in GAO more than 10 days after protester becomes aware of basis for protest (rejection of proposal as technically unacceptable) is untimely.

Jarrell-Ash Division (JAD) of Fisher Scientific Company protests the rejection of its proposal for a research analysis system as technically unacceptable by the Department of Agriculture (Agriculture) under request for proposals (RFP) No. 84-A-S&E-82. JAD's proposal was rejected without negotiations, and JAD protests that it was denied the same opportunity as other offerors to negotiate and thereby remedy its proposal's alleged deficiencies and to submit a best and final offer.

We dismiss the protest.

In its protest letter filed (received) in our Office on September 27, 1982, JAD states that Agriculture notified JAD on September 10, 1982, by letter, that its proposal was determined technically unacceptable and of the bases for this determination. JAD was also advised that its proposal would receive no further consideration. Thus, Agriculture's letter essentially advised JAD that it did not believe JAD's proposal could be made acceptable through negotiations.

Our Bid Protest Procedures require that a protest be filed with GAO within 10 days after the basis for protest is known. 4 C.F.R. § 21.2(b)(2) (1982).

While JAD asserts that it first received notice from Agriculture that negotiations had been held with other offerors in the competitive range at a debriefing held on September 23, 1982, JAD clearly knew of its grounds for protest, the rejection of its offer without negotiations, and the reasons for this rejection on September 10, 1982. JAD's protest to this Office was not received until September 27, 1982, more than 10 days after JAD became aware of its basis for protest.

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The protest is therefore untimely and will not be considered on the merits.

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