

DECISION

24707
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-208867**DATE:** April 4, 1983**MATTER OF:** JRS Industries, Inc.**DIGEST:**

Time for fixing date of protest is when protest is made and not when protester indicates an intention to file a future protest.

JRS Industries, Inc. (JRS), protests against the rejection of its offer as late under request for proposals No. SB82NBS0053 issued by the National Bureau of Standards (NBS), Department of Commerce.

We agree with Commerce that the protest is untimely.

JRS was notified by a letter of August 9, 1982, from the NBS contracting officer that its offer was rejected because it was received late. JRS phoned the NBS contract specialist and contracting officer on August 12 to discuss the rejection. Thus, JRS knew the basis of its protest at least by August 12, but the protest was not received in our Office until September 1, 4 working days more than the 10 working days provided in the Bid Protest Procedures, 4 C.F.R. §§ 21.2(a) and (b)(2) (1982). Commerce states that, although JRS expressed dissatisfaction with the rejection on August 12, JRS did not protest at that time. JRS does not dispute this. JRS states instead that it told at least two persons in the NBS contracts section that it was going to protest and that it did after it learned the procedure.

It is clear from the foregoing that JRS did not intend the conversation on August 12 to constitute a protest. While JRS may have indicated an intention to file a future protest, we have held that a threat to protest merely expresses the possibility of a protest in the future and cannot be used to fix the date of the protest for timeliness purposes. D. J. Findley and Company, B-206921, August 17, 1982, 82-2 CPD 135.

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Accordingly, since the protest was not filed within 10 working days after JRS knew the basis for protest, it is dismissed as untimely.

Harry R. Van Cleve
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Acting General Counsel