

DECISION

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

26703

FILE: B-212409**DATE:** November 3, 1983**MATTER OF:** H.L. Miller Machine Tools, Inc.**DIGEST:**

Protest filed with GAO more than 10 working days after protester had knowledge of initial adverse agency action on its protest to agency is untimely filed and is not for consideration.

H.L. Miller Machine Tools, Inc. protests the rejection of its bid and the award of a contract to Luther and Pederson, Inc. for a CNC Vertical Turret Lathe under solicitation No. DAAA08-83-B-0024 issued by the the Army's Rock Island Arsenal.

We dismiss the protest as untimely filed.

By letter dated June 16, 1983, the contracting officer notified Miller that its bid was rejected as nonresponsive and that award was made to Luther. Miller protested the award to the agency, arguing that it was the low responsive bidder and requesting that the award to Luther be delayed pending resolution of the matter. A June 23 letter from the contracting officer rejected Miller's request and outlined the reasons why the firm's bid was rejected as nonresponsive. This protest was filed with our Office on July 19.

Our Bid Protest Procedures provide that once a protest has been timely filed with the contracting agency, any subsequent protest to our Office must be filed within 10 working days of actual or constructive knowledge of the agency's initial adverse action regarding the protest. 4 C.F.R. § 21.2(a) (1983).

The contracting officer's June 23 response to Miller's protest constitutes initial adverse agency action. Consequently, Miller's delay in filing its protest with our Office until July 19 renders the protest untimely.

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The protest is dismissed.

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