

**DECISION**

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

26745

FILE: B-213523

DATE: November 10, 1983

MATTER OF: Baldwin-Hamilton Company

**DIGEST:**

1. A bidder's ability and intention to perform a contract according to the specifications is a matter of responsibility, and the General Accounting Office will not review a determination that a bidder is responsible except in limited circumstances not present here.
2. Protest filed with the GAO more than 10 working days after the protester receives the contracting agency's denial of its protest to agency is untimely.

Baldwin-Hamilton Company protests the Defense Logistics Agency's (DLA) award of a contract to Hatch & Kirk, Inc. under solicitation No. DLA700-82-R-4409. Baldwin basically complains about the awardee's intention to meet contract requirements calling for the furnishing of new, unused cylinder head assemblies. We dismiss the protest.

The protest concerns the awardee's responsibility, that is, its ability and intention to perform the contract in accordance with its terms. J. Baranello & Sons, 58 Comp. Gen. 509 (1979), 79-1 CPD 322. In this connection, the enclosures to the protest letter indicate that the awardee's bid was considered to be responsive and that the company was found to be responsible. We do not review affirmative determinations of responsibility absent circumstances not relevant here. We also point out that it is the contracting agency's responsibility to administer the contract so as to obtain the performance it contracted for, and that contract administration is not within the purview of GAO's bid protest procedures. Equipment Renewal Company, B-211051, March 30, 1983, 83-1 CPD 332.

We also point out that the protest here is untimely. Baldwin initially protested to DLA. After an exchange of correspondence, DLA, by letter dated September 23, 1983, denied Baldwin's protest. Baldwin received this letter on September 29. Baldwin's letter of protest to us, dated October 21, 1983, was received on October 25, 1983.

027147

B-213523

Our Bid Protest Procedures state that if a protest has been filed initially with the contracting agency, any subsequent protest to us must be filed within 10 working days of the protester's receipt of notification of initial adverse agency action on the protest. 4 C.F.R. § 21.2(a) (1983). The protest filed here on October 25 obviously did not meet that standard. See Gulf Systems, Inc., B-210080, January 6, 1983, 83-1 CPD 12.

The protest is dismissed.

*Harry R. Van Cleve*

Harry R. Van Cleve  
Acting General Counsel