

DECISION

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

Support

27264

FILE: B-213662

DATE: January 23, 1984

MATTER OF: Nu-Way Inc.

DIGEST:

Protest filed with GAO more than 10 working days after the protester learns of initial adverse agency action on its earlier protest filed with the contracting agency is untimely and will not be considered on the merits.

Nu-Way Inc. (Nu-Way) protests the contracting agency's interpretation of the bid results under invitation for bids (IFB) DABT59-83-B-0090, issued by the Department of the Army (Army). The IFB sought bids for renovating 10 buildings located at Fort A.P. Hill. Nu-Way contends that its bid should have been evaluated using its bid price of \$427,444 and that it should have been awarded the contract.

We find the protest to be untimely under our Bid Protest Procedures (4 C.F.R. part 21 (1983)). Section 21.2(a) provides that where a protest has been filed initially with the contracting agency, any subsequent protest to this Office must be filed within 10 working days of actual or constructive knowledge of initial adverse agency action on the original protest. Section 21.2 (b)(3) defines the term "filed" as receipt in the contracting agency or in the GAO. Here, Nu-Way received notice on October 19, 1983, that the contracting agency had denied its protest. Nu-Way filed its protest here on November 8, which is more than 10 working days after the contracting officer's denial of its protest and, therefore, its protest is untimely. See Vanguard Management Corporation, B-210705, February 17, 1983, 83-1 CPD 172.

We dismiss the protest.

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

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