

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

27385

FILE: B-214095.2 **DATE:** February 10, 1984
MATTER OF: Appalachian Trading, Inc.

DIGEST:

Protest against rejection of bid filed with GAO more than 10 working days after protester learns of rejection of bid and basis for rejection is dismissed as untimely.

Appalachian Trading, Inc. protests the rejection of its bid to supply coal for Wright-Patterson Air Force Base under invitation for bids No. DLA600-83-B-0203 issued by the Defense Fuel Supply Center (DFSC). Appalachian contends that its failure to check the appropriate box in the solicitation indicating that the coal will be oil treated is an inadequate basis for rejecting its bid because it is supplying oil-treated coal to Wright-Patterson under an existing contract.

We dismiss the protest.

Appalachian's protest letter states that DFSC orally advised Appalachian on December 2, 1983 that it had failed to check the box indicating that the coal would be oil treated. Then, by letter of December 14, 1983, DFSC informed Appalachian that the contract to supply Wright-Patterson had been awarded to Eastern Associated Coal Corporation. Another firm protested award to Eastern and by letter of January 19, 1984, DFSC advised bidders of that protest. Appalachian's letter of January 23, 1984, also objecting to the rejection of its bid, was received by this Office shortly thereafter, on January 30, 1984.

Section 21.2(b)(2) of our Bid Protest Procedures requires that protests of other than solicitation improprieties be filed within 10 working days after the protester knew or should have known the basis for the protest. Where the bidder is advised of the unacceptability of its bid and the reason for its rejection, a protest based on such rejection must be filed within 10 working days of the bidder's receipt of such notice. Swintec Corporation, B-212395, August 8, 1983, 83-2 CPD 184.

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Appalachian may have been advised that its bid would be rejected when it was informed on December 2, 1983 that it had failed to check the box indicating that the coal would be oil treated. In any event, Appalachian knew that its bid was unacceptable and the basis for its rejection when it received DFSC's December 14, 1983 award notice. Consequently, taking into account a reasonable time for delay of that notice in the mails, Appalachian's protest, first filed 31 working days later, was untimely.

The protest is dismissed.

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