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DECISION



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

FILE: B-214388

DATE: March 16, 1984

MATTER OF: Allis-Chalmers Corporation

DIGEST:

Protest filed with GAO more than 10 working days after initial adverse action by contracting agency on protest filed with contracting agency is dismissed as untimely. Protester's continued pursuit of protest with contracting agency does not change this result.

Allis-Chalmers Corporation (Allis-Chalmers) protests that the Defense Logistics Agency (DLA) awarded a contract to a nonresponsive bidder under solicitation No. DLA700-83-A-1622.

By letters dated September 23 and 27, 1983, and October 27, 1983, Allis-Chalmers protested to DLA that the bid of Reddy-Buffalo Pump Company, the awardee, was non-responsive. By letter dated November 10, the DLA contracting officer denied the protest. Allis-Chalmers resubmitted its protest to DLA on November 22. Subsequently, Allis-Chalmers protested to our Office by letter dated February 9, 1984.

Under our Bid Protest Procedures, once a protest has been timely filed with the contracting agency, any subsequent protest to our Office must be filed within 10 working days after the protester receives actual or constructive notice of initial adverse agency action on the protest. 4 C.F.R. § 21.2(a) (1983); Starck Van Lines of Columbus, Inc., B-211361, May 6, 1983, 83-1 CPD 476. The fact that a protester continues to pursue its protest with the contracting agency does not alter this rule. Id. Consequently, assuming Allis-Chalmers filed its initial protest with the contracting agency timely, since Allis-Chalmers did not file its protest with our Office within 10 working days after receipt of the contracting officer's November 10, 1983, denial, the protest to our office is untimely and will not be considered on the merits. Id.

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The protest is dismissed.

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