

28606

**DECISION**



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

**FILE:** R-215051.2      **DATE:** June 26, 1984  
**MATTER OF:** Pulau Electronics Corporation--  
Reconsideration

**DIGEST:**

Where protester conveys in detail to the contracting officer its concern that the specifications are inadequate and its belief that the solicitation should be clarified, the agency response to this communication, denying protester's allegations concerning the specifications, is considered initial adverse agency action. Protest filed with GAO more than 10 working days after receipt of this initial adverse agency action is untimely.

Pulau Electronics Corporation (Pulau) requests that we reconsider our decision in the matter of Pulau Electronics Corporation, R-215051, May 23, 1984, 84-1 CPD \_\_\_\_.

In that decision, we dismissed Pulau's April 26, 1984, protest as untimely filed at GAO more than 10 working days after Pulau received initial adverse agency action on April 9 when Pulau's protest was denied by the agency. Pulau contends that the date of the agency letter denying its protest is April 18 and, therefore, its protest to GAO is timely under 4 C.F.R. § 21.2(b)(3) (1983).

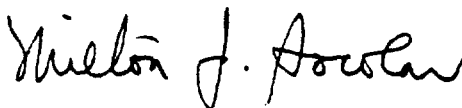
We disagree with Pulau. While Pulau received a letter from the agency dated April 18 denying an April 13 protest, initial adverse action on Pulau's prior agency protest on the same matter occurred on April 9. On April 9, according to Pulau's original protest submission to GAO, Pulau received a letter from the contracting officer (CO), responding to Pulau's eight contentions relating to inadequacies in the specifications raised in January. The CO concluded that the specifications were adequate. We conclude that Pulau's January communication to the CO complaining about the specifications was a protest to the agency because it adequately conveyed Pulau's dissatisfaction and belief that the solicitation should be amended.

029246

and, therefore, the agency's April 9, 1984, response was initial adverse agency action. See Worldwide Marine, Inc., B-212640, February 7, 1984, 84-1 CPD 152; Monarch Enterprises, Inc., B-208631, May 23, 1983, 83-1 CPD 548. As such, Pulau's protest to GAO is untimely. 4 C.F.R. § 21.2(b)(3) (1983); Nu-Way Inc., B-213662, January 23, 1984, 84-1 CPD 101.

Under these circumstances, we find that Pulau has not shown any error of fact or law which would warrant reversal of our decision dismissing Pulau's protest as untimely. See 4 C.F.R. § 21.9(a) (1983).

Our initial decision is affirmed.

  
for Comptroller General  
of the United States