

DECISION

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

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FILE: B-217367

DATE: January 3, 1984

Per GAO

MATTER OF: C & M Associates

DIGEST:

Protest filed more than 10 days after protester was aware or should have been aware of its basis of protest is untimely.

C & M Associates (C&M) protests the award of seven contracts for cutting tools issued by the Defense Logistics Agency. C&M alleges that, based on C&M's knowledge of domestic prices for these tools, the contracts have been awarded to firms offering foreign products and requests that these contracts be terminated and the requirements resolicited.

We dismiss the protest.

The protester indicates that all of these contracts were awarded between January 1984 and September 1984. Our Bid Protest Procedures, 4 C.F.R. § 21.2(b)(2) (1984), require protests to be filed within 10 days after the basis for the protest is known or should have been known, whichever is earlier. C&M is protesting contract awards, the latest of which dates back at least 3 months, based on information available at the time of these contract awards. Therefore all of its protest are untimely filed under our Bid Protest Procedures.

We also note that the Buy American Act, which applies to federal agency purchases of foreign products, does not prohibit agency procurement of foreign end products, or require the disqualification of a bidder who offers a foreign end product. Rather, the act and implementing regulations provide a preference for domestic items which is established through the use of an evaluation differential (in most cases, 6 percent of the price of the foreign item) which is added to the price of the foreign item. Autoclave Engineers, Inc., B-217212, Dec. 14, 1984, 84-2 C.P.D. ¶ ____.

Harry R. Van Cleve

Harry R. Van Cleve
General Counsel

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