

DECISION

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

FILE: B-220238.2 **DATE:** October 28, 1985
MATTER OF: Freund Precision, Inc.--Reconsideration

DIGEST:

Prior decision dismissing protest as untimely is affirmed where protester fails to show that GAO was in error in finding that protester became aware of basis of its protest in oral conversation with contracting agency official.

Freund Precision, Inc. asks that we reopen the file on its protest of a contract award made by the Defense Logistics Agency (DLA) under request for proposals No. DLA120-85-R-1028. As discussed below, however, because Freund fails to show that our dismissal of its protest against the rejection of its proposal was in error, our prior decision is affirmed.

We originally dismissed Freund's protest as untimely. Freund Precision, Inc., B-220238, Sept. 13, 1985, 85-2 CPD ¶ _____. We relied on the fact that, by its own admission, Freund was aware of the basis of its protest as a result of an oral conversation with a DLA official, but failed to file its protest within 10 days of becoming so aware, as required by our Bid Protest Regulations.

Freund now maintains that the oral information was "nothing more than rumor," on which a protest could not have been based. We disagree. We have recognized that although it may be reasonable for a prospective protester to wait for written notification of the contracting agency's reasons for rejecting its proposal, a protester may not delay filing its protest where it has in fact learned the basis of its protest orally. A-Rentals, Inc., B-211326.2, Mar. 31, 1983, 83-1 CPD ¶ 580. In this case, Freund originally admitted having had sufficient knowledge of the basis of its protest at the time of the oral conversation. Moreover, we cannot accept Freund's latest account that the information it learned was a mere rumor. The record shows Freund had dealt with the above-mentioned DLA official throughout the course of the negotiation process. Freund, therefore, had no reason to regard the official's oral statements as "nothing more than rumor."

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Accordingly, as Freund has failed to show that our dismissal of its protest was in error, our prior decision is affirmed.

for Seymour E. Van
Harry R. Van Cleve
General Counsel