



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Elite Building Services

File: B-230867.2

Date: June 10, 1988

DIGEST

General Accounting Office will not consider a protest filed more than 10 working days after the protester received oral notification of an adverse response to its agency-level protest.

DECISION

Elite Building Services protests the Department of the Army's rejection of its bid under solicitation No. DABT39-88-B-0078 for custodial services at Fort Sill, Oklahoma. Elite's bid was rejected because it contained a discrepancy between unit prices and extended prices. We dismiss the protest as untimely.

Elite initially protested the matter to the Army, claiming that the contracting officer incorrectly assumed the unit prices rather than the extended and total prices to be correct. The Army advises that on May 9, 1988, Elite called Fort Sill concerning the protest and the contract administrator read to the firm the contents of a May 2 letter denying the protest, which the agency had mailed to the protester on May 5. Elite protested the Army's action to the General Services Administration (GSA) Board of Contract Appeals on May 12, and forwarded its protest to our Office when it learned that the matter was not within the Board's jurisdiction. We received Elite's protest on May 24.

Under our Bid Protest Regulations, where a protest initially was filed with the contracting agency, a subsequent protest to our Office must be filed within 10 working days after the protester learned of adverse action on the agency-level protest. 4 C.F.R. § 21.2 (1988). The oral notification on May 9 began the 10-day period, see Aztek, B-229788, Dec. 30, 1987, 87-2 CPD ¶ 648, so that the May 24 protest to our Office is untimely. In this respect, Elite's erroneous protest to the GSA Board did not toll the time for filing

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with our Office, since a protester is charged with constructive notice of our filing requirements. See Amertech Industries, Inc., B-229498, Nov. 9, 1987, 87-2 CPD ¶ 469.

The protest is dismissed.

Ronald Berger

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General Counsel