



**The Comptroller General  
of the United States**

Washington, D.C. 20548

## **Decision**

Matter of: Glesby Building Materials Company, Inc.  
File: B-231600  
Date: June 14, 1988

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### **DIGEST**

Protest of other than an apparent solicitation impropriety is untimely where filed more than 10 working days after the basis for protest was known. Moreover, filing of a protest with the General Services Administration Board of Contract Appeals that is not within the Board's jurisdiction does not toll the time for filing with the General Accounting Office.

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### **DECISION**

Glesby Building Materials Company, Inc., protests the rejection of the offer it submitted in response to solicitation No. FCNA-F9-2103N-12-15-87, issued by the General Services Administration (GSA). We dismiss the protest as untimely.

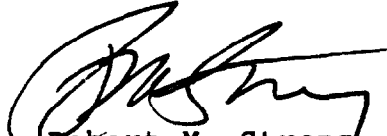
Glesby was informed on May 13, 1988, that it was not going to be awarded a contract in the procurement. On May 23, Glesby filed a protest with the GSA Board of Contract Appeals, but the Board informed Glesby, on May 31, that the protest should have been directed to our Office. Glesby filed the protest with our Office on June 1, which is 12 working days from the date Glesby knew its basis for protest.

Our Bid Protest Regulations provide that a protest, to be timely, must be filed within 10 working days after the basis of the protest is known or should have been known (whichever is earlier), 4 C.F.R. § 21.2(a)(2) (1988), or within 10 working days of actual or constructive knowledge of initial adverse agency action in the case of a protest filed initially with the contracting agency. 4 C.F.R. § 21.2(a)(3). In this respect, the Board, which has statutory authority to consider only protests concerning automated data processing (ADP) equipment, 40 U.S.C.A. § 759(f) (West Supp. 1988), amending 40 U.S.C. § 759 (Supp. III 1985), was established pursuant to 41 U.S.C. § 607 (1982) as an independent executive branch tribunal. The

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Board does not, therefore, constitute the contracting agency for purposes of an initial filing on a GSA non-ADP protest. Amertech Industries, Inc., B-229498, Nov. 9, 1987, 87-2 CPD ¶ 469. Moreover, since our Regulations are published in the Federal Register, protesters are charged with constructive notice of their contents. Id; Coastal Industries, Inc.--Reconsideration, B-223158.2, June 30, 1986, 86-2 CPD ¶ 20.

Since Glesby failed to file a protest either with our Office or the contracting agency within the required 10 working day period, the protest is dismissed. 4 C.F.R. § 21.2(a)(2).



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