

S. Becker 151866



Comptroller General  
of the United States  
Washington, D.C. 20548

## Decision

**Matter of:** Romeo Engineering Inc.

**File:** B-257354

**Date:** May 24, 1994

### DECISION

Romeo Engineering Inc. protests the rejection of its bid as nonresponsive by the Department of the Army under invitation for bids (IFB) No. DACA63-94-B-0041.

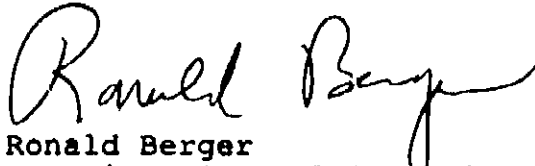
We dismiss the protest as untimely.

Romeo was initially advised by the agency on April 20, 1994, that its bid was found nonresponsive. Romeo states that it tried to resolve the matter with the agency but was advised by letter dated April 25 that the agency considered the bid to have been properly rejected. Romeo met with the agency on April 29 to try to persuade the agency to reconsider. Romeo filed its protest here on May 19, 1994.

Our Bid Protest Regulations contain strict rules requiring timely submission of protests. Under these rules, protests must be filed no later than 10 working days after the protester knew, or should have known, of the basis for protest, whichever is earlier. 4 C.F.R. § 21.2(a)(2). In this regard, a protester's receipt of oral information forming the basis of its protest is sufficient to start the 10-day time period running; written notification is not required. Swafford Indus., B-238055, Mar. 12, 1990, 90-1 CPD ¶ 268.

Where a protest initially has been filed with a contracting activity, any subsequent protest to our Office, to be considered timely, must be filed within 10 working days of "actual or constructive knowledge of initial adverse agency action." 4 C.F.R. § 21.2(a)(3). The term "adverse agency action" is defined in our Bid Protest Regulations as any action or inaction on the part of a contracting agency which is prejudicial to the position taken in a protest filed with the agency. 4 C.F.R. § 21.0(f); Consolidated Indus. Skills Corp., B-231669.2, July 15, 1988, 88-2 CPD ¶ 58 (closing occurring 1 day following filing of agency-level protest constitutes initial adverse agency action).

Under either timeliness scenario stated above, Romeo's protest filed in our Office on May 19, 1994, is untimely, and accordingly must be dismissed.



Ronald Berger  
Associate General Counsel