

DECISION

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

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FILE: B-213599**DATE:** December 7, 1983**MATTER OF:** Builder's Security Hardware, Inc.**DIGEST:**

Where protester has not filed timely protest with GAO, GAO will not consider a claim for proposal preparation costs.

Builder's Security Hardware, Inc. (Builder's), claims its proposal preparation costs under request for proposals (RFP) No. 3-82-1-3671, issued by the Small Business Administration (SBA) for the delivery of six types of padlocks and padlock sets.

We dismiss the claim as untimely.

The RFP was issued in order to complete a defaulted subcontract under section 8(a) of the Small Business Act, 15 U.S.C. § 637(a) (1982). Section 8(a) authorizes the SBA to enter into contracts with any government agency with procuring authority and to arrange for performance of such contracts by letting subcontracts to socially and economically disadvantaged small business concerns. SBA canceled the RFP in January 1983 and so advised Builder's in a letter dated February 1, 1983, after no 8(a) firms submitted offers.

Builder's protested the cancellation and filed a claim for its proposal preparation costs with SBA in February 1983. SBA denied this claim by letter dated September 26, 1983. Builder's filed the instant claim with our Office on October 31, 1983.

We have held that we will only consider a claim for bid or proposal preparation costs in connection with a timely protest. Martel Laboratories, Inc., B-194364, August 7, 1979, 79-2 CPD 91. Our Bid Protest Procedures require that where an initial protest has been filed with the contracting agency, in order to be considered by our Office, any subsequent protest to our Office must be filed within 10 working days of the protester's actual or constructive knowledge of the initial adverse agency action taken on that protest. 4 C.F.R. § 21.2(a) (1983). Receipt by Builder's of SBA's letter of September 26, 1983, constituted knowledge of

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adverse agency action. Therefore, even though Builder's does not state when it received the letter, it is clear that Builder's has not submitted a timely protest with this Office and we will not consider its claim for proposal preparation costs.

We dismiss the claim.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel