

M. Frost
PL-cg



DECISION

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

8911

FILE: B-193474

DATE: January 22, 1979

MATTER OF: Gold Standard Corporation

DIGEST:

[Protest filed with GAO more than 10 days after notification of initial adverse agency action (~~denial of protest to agency~~) is untimely] and not for consideration by our Office.

only identical bid

DLG00720

Gold Standard Corporation protests the award of 4,800 ounces of gold bars under solicitation No. MET-224 to Johnson Matthey Bankers Limited by the General Services Administration (GSA). *DLG00721*

Gold Standard submitted a bid of \$185.05 per ounce for a 400-ounce gold bar. Johnson Matthey's bid was \$185.05 per ounce for 100,000 ounces. Gold Standard contends that pursuant to the tie bids provision set forth in the solicitation, Gold Standard should have been awarded one 400-ounce gold bar.

Gold Standard initially protested to GSA on July 26, 1978, and by letter dated August 11, 1978, GSA denied the protest. Although Gold Standard attempted on August 22, 1978, to appeal this decision, by memorandum dated September 13, 1978, the Chief Administrative Judge of GSA advised the Office of Stockpile Disposal that the Board of Contract Appeals would not have jurisdiction to consider the matter since there was no contract. On November 13, 1978, Gold Standard filed its protest with our Office.

*AGC 00348
DLG-00722*

Section 20.2(a) of our Bid Protest Procedures states in pertinent part:

003290

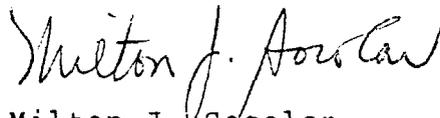
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"Protesters are urged to seek resolution of their complaints initially with the contracting agency. If a protest has been filed initially with the contracting agency, any subsequent protest to the General Accounting Office filed within 10 days of formal notification of or actual or constructive knowledge of initial adverse agency action will be considered* * *."

Since Gold Standard knew the basis for its protest upon receipt of the August 11 letter (no later than August 22, 1978) and did not file its protest with our Office until November 13, 1978, more than 10 days after formal notification of initial adverse agency action, the protest is untimely and not for consideration by our Office.

Although Gold Standard was apparently under the impression that the contracting officer's decision (initial adverse agency action) was appealable to GSA's Board of Contract Appeals instead of the subject of a protest to GAO, Gold Standard was on constructive notice of our Bid Protest Procedures since the contents, including the time limits set for filing protests, are published in the Code of Federal Regulations, 4 C.F.R. part 20 (1978). Mr. Scrub Car Wash Systems, Inc., B-186586, July 9, 1976, 76-2 CPD 29.

The protest is therefore dismissed.



Milton J. Socolar
General Counsel