

**DECISION**



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

60580  
98543

FILE: B-185924

DATE: March 1, 1976

MATTER OF: Homemaker Health Aide Service of the National  
Capital Area, Inc.

**DIGEST:**

Where a protest is not filed with either the  
procuring agency or this Office within 10  
working days after basis for protest was known,  
it is untimely and not for consideration on  
merits.

Homemaker Health Aide Service of the National Capital Area,  
Inc. (HHAS), has protested against the award of any contract under  
request for proposals (RFP) No. 1158-F, issued by the Department of  
Human Resources of the District of Columbia (DHR).

On December 11, 1975, HHAS was advised that its proposal had  
been considered and evaluated but that award had been made to another  
offeror. Conferences on the matter were held between members of HHAS  
and DHR on December 16 and 19, 1975, and also on January 19, 1976.  
At each of the three conferences, the substance of HHAS' protest was  
discussed. At the final meeting of January 19, 1976, DHR indicated  
that a final decision had already been reached and that HHAS could  
protest if it chose to do so. By letter dated February 3, 1976,  
HHAS protested to DHR. Subsequently, a protest was also filed  
(received) in this Office on February 13, 1976.

The Bid Protest Procedures (40 Fed. Reg. 17979 (1975)) of our  
Office urge protesters to first seek resolution of complaints with  
the contracting agency. Section 20.2, entitled "Time for filing,"  
provides in pertinent part:

"(a) \* \* \* 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

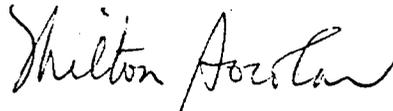
knowledge of initial adverse agency action will be considered provided the initial protest to the agency was filed in accordance with the time limits prescribed in paragraph (b) of this section, unless the contracting agency imposes a more stringent time for filing, in which case the agency's time for filing will control. In any case, a protest will be considered if filed with the General Accounting Office within the time limits prescribed in paragraph (b). (Emphasis supplied.)

\* \* \* \* \*

"(b)(2) \* \* \* bid protests shall be filed not later than 10 days after the basis for protest is known or should have been known, whichever is earlier." (Emphasis supplied.)

The basis for HHAS' protest was known, at the latest, on January 19, 1976. HHAS' letter of February 3, 1976, protesting to DHR was not filed within 10 working days after the basis of protest was known. As the initial protest to the procuring agency was untimely filed any subsequent protest to this Office cannot be considered. To do otherwise would allow a protester to circumvent the timeliness provisions in our Bid Protest Procedures. The time limit on the submission of bid protests was adopted to permit us to decide the issue while it is still practicable to take effective action with respect to the procurement where the circumstances warrant.

For the above-stated reasons, HHAS' protest is untimely and not for consideration on the merits.

*for*   
Paul G. Dembling  
General Counsel