

DECISION



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

FILE: B-183744

DATE: August 27, 1975

MATTER OF: Circle Seal Corporation

57016

97450

DIGEST:

Firm protesting rejection of its proposal as nonresponsive and alleging lack of small business assistance from the contracting officer is untimely filed and will not be reviewed on the merits since protest was filed more than five days after protester received notice of adverse agency action.

Circle Seal Corporation (Circle Seal) protests the rejection of its low bid under invitation for bids (IFB) No. DSA700-75-B-1252 issued by the Defense Construction Supply Center, Columbus, Ohio (DCSC). Circle Seal contends that the contracting officer did not provide the assistance required to be given a small business concern before determining that Circle Seal's bid was non-responsive.

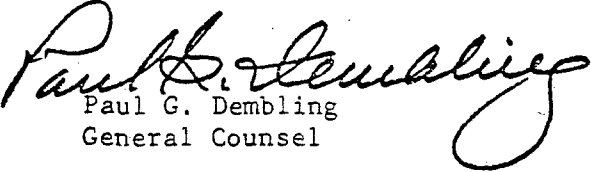
For the reasons stated below, Circle Seal's protest is untimely and cannot be considered by our Office.

Bids were opened on December 20, 1974, with Circle Seal the lower of 2 bidders. By letter of March 13, 1975, DCSC advised Circle Seal that its bid was being rejected because it did not conform to the specifications. Circle Seal protested this action to DCSC by telegram dated March 19, 1975. The contracting officer denied the protest by letter of March 26, 1975. This letter was received by Circle Seal on March 31, 1975. Circle Seal's protest was not received in our Office until April 28, 1975. Title 4, Code of Federal Regulations § 20.2(a) (1974 ed.), provides in pertinent part that:

"* * * If a protest has been filed initially with the contracting agency, any subsequent protest to the General Accounting Office filed within 5 days of notification of adverse agency action will be considered provided the initial protest to the agency was made timely. * * *"

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Since Circle Seal's protest was received in our Office more than five working days after the date of Circle Seal's receipt of the agency's denial of its protest, the protest is untimely and will not be considered on its merits.


Paul G. Dembling
General Counsel