

DOCUMENT RESUME

03290 - [A2273392]

[Protest to Late Awards of Contracts for Sale of Surplus Property]. B-189694. August 10, 1977. 2 pp.

Decision re: Intercoastal Aircraft, Inc.; by Milton Socolar (for Paul G. Dembling, General Counsel).

Issue Area: Federal Procurement of Goods and Services (1900).

Contact: Office of the General Counsel: Procurement Law I.

Budget Function: National Defense: Department of Defense - Procurement & Contracts (058).

Organization Concerned: Boeing Co.; Department of the Air Force.

Authority: B-184440 (1976). A.S.P.R. 24-206.2(e). 4 C.F.R. 20.2(a).

The protester contended that contracts for sale of surplus property were awarded by the selling agent to bidders whose higher bids were received after the bid opening date. Although such a protest is ordinarily considered by GAO, it was untimely and thus was not considered on merits. (HTW)

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DECISION



*Remain
File 3*

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

FILE: B-189694

DATE: August 10, 1977

MATTER OF: Intercoastal Aircraft, Inc.

DIGEST:

1. Protest by prospective purchaser of surplus Air Force property alleging that Air Force and contractor acting as selling agent for Air Force should not consider late bids is type ordinarily for consideration by GAO, since contractor is merely acting as intermediary for Air Force, which, pursuant to section 24-206.2(e) (1976 ed.) of Armed Services Procurement Regulation, approves selection of purchasers.

2. Protest to GAO alleging late bids for purchase of surplus Air Force property should not be considered which is filed more than 10 days after receipt of notice that Air Force will consider late bids following initial protest to Air Force and contractor acting as selling agent for Air Force is untimely under Bid Protest Procedures, 4 C.F.R. § 20.2(a) (1977), and will not be considered on merits.

On April 7, 1977, the Boeing Company (Boeing), acting as agent for the Air Force, issued invitation to bid 4-5130-02-078 for the sale of surplus Air Force property. The invitation stated that bids would be opened on April 25, 1977, at 10:00 a.m.

Intercoastal Aircraft, Inc. (Intercoastal), contends that at the time of bid opening it was the high bidder on several lots of surplus property. However, Boeing awarded contracts for the property to bidders whose higher bids were received after the bid opening date.

We held in DeLorenzo Scrap Iron & Metal Co., B-184440, January 2, 1976, 76-1 CPD 6, that we will consider protests concerning the sale of surplus Government property by a Government contractor where the Government contractor is merely acting as an intermediary for the contracting agency, which, pursuant to section 24-206.2(e) (1974 ed.) of the Armed Services Procurement Regulation (ASPR), approves the selection of the purchasers. While Intercoastal's protest is the type ordinarily for consideration by our Office, we find for the reasons stated below that it is untimely under the Bid Protest Procedures, specifically 4 C.F.R. § 20.2(a) (1977) which, in part, provides:

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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 * * *."

Intercoastal initially filed its protest with Boeing and the Air Force contending that the late bids should not be considered for award. By letter dated June 10, 1977, Boeing informed the attorney for Intercoastal that Boeing considered that the acceptance of the late bids was proper and that the Air Force concurred with Boeing's opinion.

The record shows that Boeing's letter of June 10, 1977, was received by Intercoastal's attorney on June 14, 1977. Intercoastal, however, did not file its protest with our Office until July 25, 1977, or more than 10 days after the receipt of the notice of initial adverse agency action.

Since Intercoastal's protest is untimely, it will not be considered on the merits.

for Milton Aorolan
for Paul G. Dembling
General Counsel