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Vickers
P.L.I

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20540

FILE: B-191470

DATE: April 5, 1978

MATTER OF: The Art Production Company

DIGEST:

Where protester initially protests improprieties in evaluation criteria to contracting agency but no changes are made in criteria and proposals are received as scheduled, receipt of proposals constituted adverse agency action and subsequent protest to GAO more than 10 working days after receipt of initial proposals is untimely under Bid Protest Procedures.

The Art Production Company has protested the award of a contract by the United States Army Corps of Engineers under solicitation No. DACW73-78-R-0006.

The contentions advanced by the protester all involve alleged improprieties in the evaluation criteria contained in the solicitation.

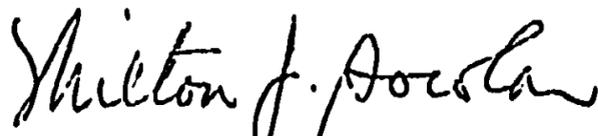
It appears that Art Production protested these matters to the contracting officer prior to February 13, 1978, the date set for receipt of initial proposals; however, no changes were made in the solicitation and proposals were submitted as scheduled on February 13. Art Production's protest with our Office was filed on March 23, 1978.

Our Bid Protest Procedures (4 C.F.R. part 20 (1977)) provide that protests based upon alleged improprieties in any type of solicitation which are apparent prior to the closing date for receipt of initial proposals

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shall be filed prior to such date. 4 C.F.R. § 20.2 (b)(1). If a protest has been filed initially with the contracting officer, any subsequent protest to this Office filed within 10 working days of actual or constructive knowledge of "initial adverse agency action" will be considered, provided the initial protest to the agency was timely. 4 C.F.R. § 20.2(a). "Adverse agency action" is defined to include any action or inaction on the part of a contracting agency which is prejudicial to the position taken in a protest filed with an agency. 4 C.F.R. § 20.0(b). We have stated that such action may consist of a bid opening or receipt of initial proposals. Square Deal Trucking Co., Inc., B-182436, February 19, 1975, '5-1 CPD 103.

Accordingly as the protest was not filed within 10 working days after the initial adverse agency action, receipt of proposals on February 13, 1978, it is untimely and not for consideration on the merits.

for 
Paul G. Dembling
General Counsel