

PL-CG

**DECISION**



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

10,119

FILE: B-194513

DATE: May 10, 1979

MATTER OF: Introl Corp.

TLG 01549

DIGEST:

*[Protest Alleging*

Even if protest against alleged improprieties in RFP was initially filed with contracting agency before closing date for receipt of proposals, consideration of proposals without taking corrective action urged by protester is considered to be "adverse agency action" for purposes of GAO's Bid Protest Procedures. Protest filed with GAO more than 10 days after closing date is untimely.

Introl Corp. protests the award of a contract by the Department of the Navy, Naval Regional Procurement Office, Long Beach, California, under request for proposals (RFP) No. N00123-79-R-0840.

Introl contends that the RFP is ambiguous, incomplete and restrictive. Introl further contends that it initially filed a protest with the Navy "before and after" the closing date for receipt of proposals and received no reply until March 27, 1979, at which time the contracting officer telephonically informed Introl that the Navy would continue the procurement despite the protest. The closing date for receipt of initial proposals was March 16, 1979. Introl filed a subsequent protest with our Office on April 3, 1979.

Section 20.2(a) of our Bid Protest Procedures, 4 C.F.R. part 20 (1978), states, in pertinent part, as follows:

"Protesters are urged to seek resolution of their complaints initially with the contracting agency. If a protest has been filed initially with

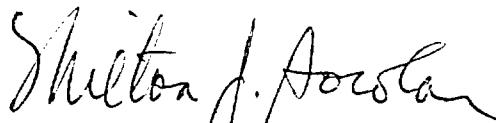
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the contracting agency, any subsequent protest to the General Accounting Office filed within 10 days of formal notification of or actual or constructive knowledge of initial adverse agency action will be considered \* \* \*."

We have held that the consideration of proposals by the procuring activity without taking complete corrective action on the protested items is adverse agency action within the meaning of our Bid Protest Procedures. Architect-Engineer Services For Connecting Passageway, Project No. 671-003, Audie L. Murphy Memorial Veterans Hospital, B-184481, August 19, 1975, 75-2 CPD 117.

Since Introl's protest to our Office was filed more than 10 days after the adverse agency action (March 16 closing date for receipt of proposals), it is untimely and not for consideration by our Office. Even if Introl continued to protest to the Navy after the closing date, it was Introl's obligation to file its appeal with GAO rather than to pursue the matter with the agency or run the risk of its protest being determined untimely. Murphy Anderson Visual Concepts--Reconsideration, B-191850, July 31, 1978, 78-2 CPD 79.

Therefore, the protest is dismissed.



Milton J. Socolar  
General Counsel