

*Proc Law I*

**DECISION**



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

*10,165*

FILE: B-194452

*CX 02294*

DATE: May 14, 1979

MATTER OF: Hoedads Co-op, Incorporated - Reconsideration

*[Untimely Protest of Forest Service Contract Specifications]*

DIGEST:

Decision affirmed on reconsideration since new facts do not alter conclusion that protest was untimely filed.

*AG 00034*

Hoedads Co-op, Incorporated (Hoedads), requests reconsideration of our decision in Hoedads Co-op, Inc., B-194452, April 10, 1979, where we found Hoedads' protest, alleging overly restrictive specifications in a Forest Service aerial herbicide spraying contract, to be untimely because it was not filed with our Office until after bid opening. We are affirming that decision since the new facts presented in Hoedads' request have not altered our conclusion that the protest was untimely filed.

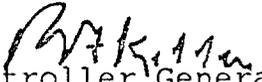
Hoedads' protest was received on March 26, 1979. Our decision was based on advice from the Forest Service that the bids were opened on March 9, 1979. Hoedads reports that, notwithstanding the Forest Service advice, the solicitation indicates a March 16, 1979, bid opening date. We have again asked the Forest Service about the bid opening. The Forest Service admits that the first advice was in error and states that the bids were in fact opened on March 22, 1979. Even using this later bid opening date Hoedads' March 26, 1979, protest is not for consideration on the merits under our Bid Protest Procedures which require that protests based upon alleged improprieties in a solicitation which are apparent prior to bid opening must be filed prior to bid opening. See 4 C.F.R. § 20.2(b)(1) (1978).

Hoedads also reports that a copy of its GAO protest was hand-delivered to the Forest Service contracting officer prior to bid opening. Such action,

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however, does not constitute "filing" with GAO as the term is used under our Bid Protest Procedures nor does it constitute "filing" with the Forest Service since the protest was addressed to GAO. See 4 C.F.R. § 20.2(b)(3) (1978), which defines "filed" as receipt in GAO. Society Brand, Incorporated, 55 Comp. Gen. 133, 134 (1975), 75-2 CPD 91.

Accordingly, our decision is affirmed.

  
Deputy Comptroller General  
of the United States