

GAO 00047 PL-CG

**DECISION**



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

- 19LG01901

10,462  
10,552

FILE: B-194959

DATE: June 25, 1979

MATTER OF: Syntex Laboratories Inc.

**DIGEST:**

1. Protest to GAO alleging restrictive solicitation after denial by contracting agency will not be considered, since protest was filed with contracting agency untimely.
2. Even if protest to contracting agency was timely, protest to GAO filed more than month after initial adverse agency action was untimely.

Syntex Laboratories Inc. (Syntex) protests the award of a contract by the United States Department of Agriculture (USDA) under Announcement PV-LF-1, Amendment 9, Invitation 11. The procurement is for 120,000 cases of concentrated liquid infant formula.

AGC00042

The date set for bid opening was February 20, 1979. On March 6, Syntex filed a protest with USDA complaining that the solicitation was deficient in that it was restrictive. By letter dated March 28, the contracting officer denied Syntex's protest. Syntex subsequently protested to our Office by letter dated April 30.

Section 20.2(b)(1) of our Bid Protest Procedures (Procedures), 4 C.F.R. part 20 (1978), provides:

"Protests based upon alleged improprieties in any type of solicitation which are apparent prior to bid opening or the closing date for receipt of initial proposals shall be filed prior to bid opening or the closing date for receipt of initial proposals."

*Untimely bid-protest  
Solicitation specifications*

[ALLEGATION That Solicitation Was Deficient]

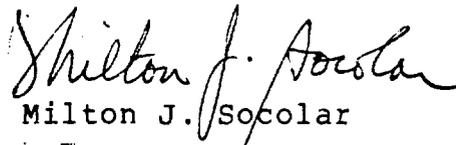
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Section 20.2(a) of our Procedures urges protesters to seek resolution of their complaints initially with the contracting agency. If a protest is filed initially with the contracting agency, our Office will consider a subsequent protest only if it is filed here within 10 working days of initial adverse agency action and the protest to the agency was filed in accordance with our timeliness standards. 4 C.F.R. @01  
§ 20.2(a).

Since Syntex's initial protest to the contracting agency against the solicitation was not filed with the agency in a timely manner (prior to bid opening), the subsequent protest to our Office is not for consideration.

Moreover, even if the protest to the contracting agency was timely, since Syntex did not protest to our Office until more than a month after the initial adverse agency action, the protest to our Office was untimely. Security Assistance Forces and Equipment OHG, B-193364, March 27, 1979, 79-1 CPD 203.

Therefore, the protest is dismissed.

  
Milton J. Socolar  
General Counsel