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DECISION



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

Protest Alleging Amendment Did Not Allow Sufficient Time for Revision

FILE: B-201611

DATE: January 19, 1981

MATTER OF: Gulf Coast Elevator Company, Inc.

DIGEST:

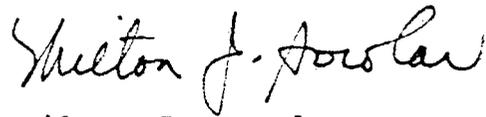
Protest to agency alleging that amendment unfairly prejudiced protester, filed after bid opening, was untimely and, therefore, protest of agency denial will not be considered on merits.

Gulf Coast Elevator Company, Inc. (Gulf Coast), protests the award of a contract by the Department of the Navy to Montgomery Elevator Co. under invitation for bids (IFB) N62467-80-CO476. On September 2, 1980, the solicitation, a 100-percent small business set-aside, was modified by an amendment withdrawing the set-aside and postponing the bid opening from September 4, 1980, to September 10, 1980. Gulf Coast claims that because it received this amendment on September 5, 1980, it was not given sufficient time to revise its bid and has been adversely and unfairly prejudiced by this late amendment.

Although Gulf Coast received the amendment 5 days before bid opening, it initially protested to the agency in a letter dated September 15, 1980, 5 days after bid opening. Our Bid Protest Procedures require that protests based on alleged improprieties in any type of solicitation which are apparent prior to bid opening be filed prior to bid opening. 4 C.F.R. § 20.2(b)(1) (1980). Further, where, as here, protests are filed with the agency and denied, any subsequent protest to our Office will be considered only if the protest to the agency was timely. 4 C.F.R. § 20.2(a) (1980). Because the basis for Gulf Coast's protest was apparent from the amendment, the protest, filed with the Navy subsequent to bid opening, is untimely and will not be considered on the merits. DRA Systems, Inc., B-199752, August 22, 1980, 80-2 CPD 144.

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The protest is dismissed.

A handwritten signature in cursive script that reads "Milton J. Socolar". The signature is written in dark ink and is positioned above the typed name.

Milton J. Socolar
General Counsel