

Mr. Vickers

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DECISION

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

FILE: B-202978

DATE: May 4, 1981

MATTER OF: Beelner & Thomas

DLG06339

DIGEST:

[Protest of Solicitation Specifications]

Receipt of proposals on scheduled date constitutes initial agency action adverse to protest against specifications filed with agency. Subsequent protest to GAO not filed within 10 working days of adverse action is untimely.

Beelner & Thomas (B&T) has protested the specifications contained in solicitation No. FNMS-S2-5267-N issued by the General Services Administration (GSA).

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B&T objects to the solicitation being issued on a brand name or equal basis and filed a protest with the Deputy Commissioner of the Federal Supply Service (FSS) on March 24, 1981. The closing date for receipt of initial proposals was March 30, 1981. On April 15, 1981, B&T received a letter from the Acting Director of the National Furniture Center, FSS, the procuring activity, advising that B&T's protest letter was not received at the Center until after the closing date and that the procurement was proceeding. B&T protested to our Office on April 20, 1981.

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Assuming that the protest at the agency level was timely filed prior to the closing date, we find the subsequent protest here to be untimely filed under our Bid Protest Procedures (4 C.F.R. part 20 (1980)). Section 20.2(a) of the Procedures requires protests be filed with our Office within 10 working days of actual or constructive knowledge of the initial adverse agency action following a protest to the contracting agency. We have held that the receipt of proposals or opening of bids on the scheduled date, without taking the corrective action

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the protester urges, constitutes initial adverse agency action. Baxter & Sons Elevator Co., Inc., 60 Comp. Gen. ____ (B-197595, December 3, 1980), 80-2 CPD 414. Since B&T's protest was filed more than 10 working days after March 30, 1981, it is untimely and not for consideration.

The protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel