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DECISION



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

FILE: B-206081

DATE: January 27, 1982

MATTER OF: A. Lee Parker

DIGEST:

Protest alleging that solicitation impermissibly limited competition and favored incumbent by establishing a relatively short performance period is untimely because it was not filed with GAO within ten working days of notification of initial adverse action on protest filed with agency.

A. Lee Parker protests the prospective award of a contract to Jaxson, Inc. by the Department of the Army under invitation for bids DABT01-82-B-0007-1. The invitation is for refueling and defueling at Fort Rucker, Alabama for a base period of six months with two one-year option periods.

Mr. Parker contends that the Army limited the base period to six months in order to favor Jaxson, Inc., the incumbent contractor. Mr. Parker claims that since the cost of acquiring equipment necessary to perform the contract would exceed \$1,000,000, no bidder could realistically compete with the incumbent, who already has the requisite equipment, for a contract of so short a duration. Mr. Parker contends that the fact that only Jaxson, Inc. submitted a bid in response to the invitation substantiates his claim that the IFB was written to accommodate the incumbent.

We will not consider the protest.

Our Bid Protest Procedures provide that protests based upon alleged solicitation improprieties which are apparent on the face of the solicitation be filed with the procuring agency or our Office prior to bid opening. 4 C.F.R. § 21.2 (1981). Mr. Parker filed a protest with

the contracting officer prior to bid opening, which occurred on December 31, 1981. Our Procedures also provide that once a protest has been filed with the contracting agency, any subsequent protest to our Office must be filed within ten working days of actual or constructive knowledge of initial adverse agency action concerning the protest. 4 C.F.R. § 21.2(a). Mr. Parker received the contracting officer's denial of the protest with the Army on December 23, 1981. Mr. Parker did not file a protest with our Office until January 13, 1982, more than ten working days after it was notified of initial adverse agency action. Consequently, the protest was untimely filed.

We dismiss the protest.

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