118358 Logan

DECISION

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

FILE: B-207170 DATE: May 10, 1982

MATTER OF: XTEK Corporation

DIGEST:

Where protester permits approximately three months to elapse between request to contracting activity that it be allowed to compete under sole-source solicitation and time of protest filing with agency and GAO, notwithstanding fact that activity never replied to original request and contract had been awarded and presumably was being performed, protester did not diligently pursue protest and filing with GAO is consequently untimely and not for consideration.

By letter of April 16, 1982, received by our Office on April 19, XTEK Corporation protests the sole-source award of a contract for crane parts to Colby Crane & Manufacturing Company by the Naval Supply Center, Norfolk, Virginia, under solicitation No. N00189-82-R-0113. XTEK alleges that the sole-source award was "unjustifiable," and resulted in the unnecessary expenditure of funds because XTEK, as the original supplier of the equipment, is capable of manufacturing the required item at a higher quality and lower unit price than Colby. In support of its position, the protester states that in December 1981 it was contacted by Colby as a potential subcontractor for the item.

On January 19, 1982, XTEK requested the Navy to allow it to measure existing crane parts and to permit XTEK to "bid" on these items "with only a ten-day delay in the opening of bidding." XTEK advises that it never received a response to this proposal from the contracting activity.

We do not believe that it can be said that XTEK diligently pursued its protest of this matter since, notwithstanding the fact that a contract had been awarded, and presumably was being performed, it allowed approximately three months to elapse before it followed up on its proposal to the Navy that it be allowed to compete under the solicitation by filing protests with the Navy (by letter of April 13 and with our Office (by letter of April 16). In view of this lack of diligent pursuit, we must consider the protest as untimely filed and not for our consideration. Graphics, Communications Systems, Inc., B-186715, July 23, 1976, 76-2 CPD 75.

The protest is dismissed.

Harry R. Van Cleve

Harry R. Van Cleve
Acting General Counsel