



The Comptroller General  
of the United States

Washington, D.C. 20548

# Decision

Matter of: King-Fisher Company--Reconsideration  
File: B-223590.3  
Date: September 16, 1986

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## DIGEST

Protest against sole-source procurement is untimely where protester knew agency's basis for determination to procure by other than full and open competition more than 10 working days prior to filing of protest.

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## DECISION

King-Fisher Company requests reconsideration of our dismissals of its protests against the Air Force's sole-source acquisition of fire alarm receivers and related equipment manufactured by Motorola, Inc. We affirm the dismissals.

On May 24, 1986, the Air Force published an advertisement in the Commerce Business Daily stating that the Air Force intended to acquire an alarm system receiver, including installation, optimization and programming, from Motorola under provisions for other than full and open competition. By letter dated June 4, the Air Force advised King-Fisher that copies of the solicitation were not available and that the Air Force justified the sole-source acquisition on the basis that the alarm receiver would have to be compatible with Motorola equipment already installed at Ellsworth Air Force Base.

On July 9, King-Fisher filed a protest with our Office contesting the non-availability of the solicitation. We dismissed King-Fisher's protest the next day because it was not filed within 10 working days after King-Fisher should have known of the basis for its protest, as required under our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1986).

On August 22, King-Fisher filed another protest against this same procurement, accompanied by a copy of the solicitation.

In this protest, King-Fisher contended that the Air Force had provided no justification for its sole-source acquisition of the alarm receiver and argued that a noncompetitive procurement was improper. King-Fisher also objected to the Air Force's \$51 charge for providing a copy of the solicitation.

The focus of this second protest was against the Air Force's use of other than full and open competition for the acquisition. We dismissed the protest on August 28, because King-Fisher should have been aware of the bases for it no later than when it received the Air Force's letter of June 4, but did not file its protest within 10 working days. 4 C.F.R. § 21.2(a)(2).

King-Fisher now argues that our dismissals were incorrect. In this respect, King-Fisher asserts that its first protest was against the non-availability of the solicitation, which prevented King-Fisher from ascertaining the basis for the Air Force's sole-source justification. King-Fisher also asserts that its second protest was timely because it did not receive a copy of the solicitation until August 14, and did not know until that date that the contract would be awarded under a solicitation that did not contain a sole-source justification.

We see no merit in King-Fisher's contentions. In our view, King-Fisher simply ignores the May 22 announcement in the Commerce Business Daily, which clearly stated that this was to be a noncompetitive procurement of both alarm receivers and related equipment and installation, and the Air Force's June 4 letter to King-Fisher, which specifically stated that the Air Force justified this noncompetitive acquisition on the basis of a requirement for compatibility with existing Motorola equipment in place at Ellsworth Air Force Base. These facts, which are the heart of King-Fisher's complaint, were all in King-Fisher's possession when King-Fisher received the Air Force's letter.

Moreover, King-Fisher's subsequent efforts have added nothing to its case. There is, for instance, no requirement of which we are aware for the justification for a noncompetitive procurement to be contained within the solicitation; King-Fisher's objection to the lack of justification in this solicitation is therefore not relevant to the propriety of the procurement. Further, the amount of the Air Force's charge for copying is not, generally, a protestable matter.

Our dismissals of the protests are affirmed.

*for* *Simon Efros*  
Harry R. Van Cleve  
General Counsel