



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Louisiana Pacific Corporation

File: B-230918; B-230920; B-231038

Date: April 20, 1988

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### DIGEST

Protest alleging deficiencies in the terms of a timber sale which is filed after the date of sale is untimely under General Accounting Office's Bid Protest Regulations.

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### DECISION

Louisiana-Pacific Corporation (LPC) protests the bidding and prospective award of the Drake Fire Salvage, Martin 17 percent Fire Salvage, and Bear Indian Fire Salvage timber sales by the Klamath National Forest, Forest Service, Department of Agriculture. The protester alleges that the prospectus for each of these timber sales contains "clauses pertaining to the transfer of down-payment monies from previously purchased green sales to newly purchased fire salvage sales." All of the sales occurred prior to the dates LPC filed its protests with our Office.


On January 22, 1988, the Regional Forester decided to adopt a policy permitting replacement of the 20 percent of the premium bid cash down-payment required in certain green sales with payment bonds and the transfer of the cash realized as a result to the down payments required in fire salvage timber sales. This policy was adopted in response to forest fires in 1987 which burned approximately 780,000 acres of National Forest land in California, damaging an estimated 1.8 million board feet of commercial timber. This policy was intended to encourage harvesting of fire salvage timber as promptly as possible to avoid the deterioration of the timber damaged or killed by fire. LPC has appealed to a reviewing officer within the Forest Service the decision to include such provisions in timber sales. The appeal was clearly not intended to be a bid protest; it was an attempt to convince the agency that the policy was counterproductive through the procedures established by the Forest Service for that purpose. As of the date of this protest a decision on the appeal is pending. LPC's current protests with our Office concern the three specified timber sales mentioned above which contain provisions which permit the transfer of cash for the down payments.

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Our Bid Protest Regulations provide that issues concerning alleged improprieties in a solicitation which are apparent prior to bid opening shall be filed prior to bid opening. 4 C.F.R. § 21.2(a)(1) (1988). Our decisions have applied these regulations to our review of timber sales. See Linn Timber, Inc.--Reconsideration, B-225430.2, Nov. 18, 1986, 86-2 CPD ¶ 584. Because LPC's protests involve alleged deficiencies in the terms of the sales and it failed to file its protests prior to dates of the sales, the protests are untimely.

In any event, the decision to allow the transfer of funds on certain qualifying sales is one of agency policy, which is not a matter subject to our review as part of our bid protest function because it does not subvert the purpose of the competitive bid system. See, e.g., American Council of Independent Laboratories, Inc., B-223820, Aug. 7, 1986, 86-2 CPD ¶ 169.

The protests are dismissed.



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General Counsel