

DECISION

26659
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-210168.2**DATE:** July 6, 1983**MATTER OF:** Transiac Corporation--Reconsideration**DIGEST:**

Prior decision dismissing portion of protest as untimely is affirmed on reconsideration because protester has not shown that decision was based on errors of fact or law.

Transiac Corporation (Transiac) has requested reconsideration of our decision dismissing in part and denying in part its protest of award of a contract to LeCroy Research Systems Corporation (LeCroy) by the Defense Nuclear Agency pursuant to invitation for bids No. DNA002-83-B-0007. Transiac Corporation, B-210168, May 23, 1983, 83-1 CPD 554.

Transiac argues that we should have considered its argument that LeCroy's bid was nonresponsive because its product did not meet various salient characteristics requirements set forth in the brand name or equal invitation. We dismissed this portion of Transiac's protest as untimely because it concerned the responsiveness of LeCroy's bid, but was not filed in our Office within 10 working days after Transiac should have known this basis for protest as required under our Bid Protest Procedures. 4 C.F.R. § 21.2(b)(2) (1983).

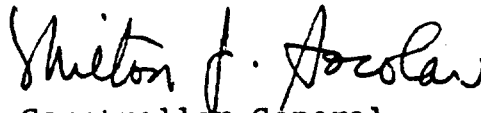
Transiac argues that it was impossible for it to have filed this issue of its protest within the 10-day time limit because it did not have access to the specifications of the LeCroy product within the 10-day time limit. We do not agree. The record upon which we based our earlier decision shows that a public bid opening was held on November 15, 1982, and that Transiac filed its initial protest in our Office on December 13. Transiac's December 13 filing showed that Transiac had knowledge of the contents of the LeCroy bid. However, Transiac's initial protest did not raise the argument that LeCroy's product did not meet the invitation's salient characteristics; this

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argument was first filed in our Office on February 10, 1983, in Transiac's comments on the contracting agency's report on the initial protest. Therefore, we concluded that Transiac did not file its argument regarding LeCroy's alleged non-responsiveness to the invitation's salient characteristics until approximately 2 months after this protest basis should have been apparent to Transiac.

Transiac has not presented any evidence to show that it did not have access to LeCroy's bid before its December 13 filing. Moreover, since a public bid opening was held on November 15, 1982, LeCroy's bid was publicly available to Transiac. Transiac had a duty to diligently pursue within a reasonable time any information which would lead it to discover its bases for protest. See National Systems Management Corporation, B-198811, October 10, 1980, 80-2 CPD 268. In this connection, we have held untimely a protest where the protester delayed as little as 5 weeks before seeking information which revealed the basis for protest. See National Council of Senior Citizens, Inc., B-196723, February 1, 1980, 80-1 CPD 87.

Accordingly, since there has been no showing of error of fact or law in our prior decision, see 4 C.F.R. § 21.9 (1983), that decision is affirmed.



Acting Comptroller General
of the United States