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DECISION

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

FILE: B-192367

DATE: August 8, 1978

MATTER OF: Sierra Research Corporation

DIGEST:

Where protest is filed with GAO more than 10 working days after receipt by protester of contracting officer's letter indicating bases for protest, protest is untimely filed and not for consideration.

Sierra Research Corporation (Sierra) protests against the award of and continuation of performance under a contract awarded pursuant to solicitation No. DAKF48-78-R-0016, issued by the Department of the Army.

The protester alleges that the Army unilaterally waived a specification requirement for a remote printer capable of printing 10-part forms instead of waiving the requirement by formally amending the solicitation. Sierra also alleges that the costs provided by the Army for application software and the maintenance of such software were not realistic and that the Army applied such costs to only one bidder, resulting in an unfair and prejudicial evaluation of the bids.

Sierra was notified on March 27, 1978, that award had been made to another bidder and requested a debriefing by letter dated May 31, 1978. By letter dated June 12, 1978, the contracting officer responded to Sierra's request, indicated that the requirement for a remote printer capable of printing 10-part forms had been waived and provided a cost comparison study. The contracting officer's response was received by the protester on June 15, 1978. Sierra's protest to our Office was filed on July 12, 1978.

Our Bid Protest Procedures require that a protest be filed, either with the contracting agency or with this Office, not later than 10 working days after the basis for protest is known. 4 C.F.R. §§ 20.2(a) and (b)(2) (1977); Commercial Diving Center, B-190939, January 18, 1978, 78-1 CPD 48. Since Sierra received

the contracting officer's clarification of the bases used in selecting the awardee on June 15, 1978, it is clear that Sierra was aware of the bases for its protest more than 10 working days before its protest was filed with our Office on July 12, 1978, and we have been informed that no protest was filed with the Department of the Army.

Consequently, the protest is untimely and not for consideration on the merits.

Milton J. Dembling
for Paul G. Dembling
General Counsel