

76416

Howdell
12-1

DECISION



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

FILE: B-192742

DATE: September 13, 1978

MATTER OF: Forest Scientific, Inc.

DIGEST:

Protest is not for consideration on merits by GAO when initial protest to agency is determined to be untimely pursuant to 4 C.F.R. § 20.2(b)(2), since basis of protest was known or should have been known more than 30 days prior to filing of initial protest.

Forest Scientific, Inc. (Forest), has protested the rejection of its bid pursuant to invitation for bids (IFB) No. DAAA22-78-B-0190, issued by the Department of the Army, Watervliet Arsenal (Army).

Forest's protest, filed with our Office on August 28, 1978, essentially questions the rejection of its bid as nonresponsive on the basis of Forest's utilization of a proxy signature. It is Forest's contention that it "may authorize whomever [the firm] wish[es] to represent [the] Company."

The record discloses that on June 26, 1978, during a telephone conversation with the Army, Forest was informed that no award would be made to Forest due to its use of a proxy signature, which was not listed on Forest's Bidder's Mailing List Application, Form SF 129, as an authorized signature for the purpose of signing bids and, therefore, not valid. Additionally, we have been advised that on June 27, 1978, counsel for Forest, during a telephone conversation, was advised of the Army's position. On July 25, 1978, after subsequent conversations between representatives of Forest and the Army, Forest filed its initial protest with the Army.

While it is true that our Bid Protest Procedures (Procedures) urge protesters to initially seek resolution of their complaints with the procuring agency, there is a requirement that before we will consider any subsequent protest to our Office the initial protest must have been filed with the agency in a timely manner. See 4 C.F.R. § 20.2(a) (1978). Section 20.2 (b)(2) (1978), of our Procedures, provides that protests "shall be filed not later than 10 [working] days after the basis for protest is known or should have been known, whichever is earlier." It is clear from the record that Forest was aware of the basis of its protest, i.e., the agency's rejection of Forest's bid due to Forest's utilization of a proxy signature, more than 10 days before its protest was filed with the agency.

Accordingly, Forest's protest with the agency was untimely filed and, therefore, will not be considered on the merits by our Office.

Paul G. Dembling
for Paul G. Dembling
General Counsel