

PL-11

DECISION



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

9749

FILE: B-194452

DATE: April 10, 1979

MATTER OF: Hoedads Co-op, Inc.

DIGEST:

CNO 02294

[Protest alleging undue restrictiveness of specifications] filed after bid opening is untimely and not for consideration on the merits.

On March 26, 1979, Hoedads Co-op, Inc. (Hoedads) protested the Forest Service's award of Contract No. R6-18-79-21 for aerial herbicide spraying on the ground that the specifications are unduly restrictive of competition.

Aerial herbicide spraying is one way of implementing the Forest Service's conifer release program. The term "conifer release" refers to clearing brush away from young stands of coniferous timber in order to improve their growth potential and ultimate yield at harvest. Conifer release can be accomplished in either of two ways, by aerial herbicide spraying, using chemicals to kill surrounding brush, or by manual labor physically removing the brush.

Hoedads contends that specifications for conifer release contracts should not specify the method to be employed, but should instead set out the Government's minimum requirements in a manner which allows both methods to compete for the contracts on an equal basis.

Our Bid Protest Procedures require that protests based upon alleged improprieties in a solicitation which are apparent prior to bid opening must be filed prior to bid opening. 4 C.F.R. 20.2(b)(1) (1978). The bids

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were opened on March 9, 1979. The Hoedads protest was received on March 26, 1979. Since the deficiency complained of is apparent on the face of the solicitation the protest had to be received prior to the March 9, 1979 bid opening in order to be timely.

Thus, this protest is untimely and will not be considered on the merits.

for *Harry R. Van Cleave*
Milton J. Socolar
General Counsel