

DECISION

11931 PL-11
Mr. Weiskopf
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-195703

DATE: November 5, 1979

MATTER OF:

Linero, Inc. - DL603259

[Protest of Alleged Improprieties in Solicitation]

DIGEST:

1. Agency's opening of bids without acting on protest is initial adverse agency action, and subsequent protest to GAO filed more than 10 working days after protester learns of or has reason to know of bid opening is untimely.
2. Protest of award to another bidder filed more than one month after basis for protest is known is untimely.

Linero, Inc., protests the award of a contract to another bidder under invitation for bids (IFB) No. 3FP-EA-R-4367, issued by the General Services Administration (GSA). The contract, issued under the Federal Supply Schedule, was for FSC Class 6675, Drafting Instruments and Instruments of Precision. Linero alleges that the IFB omitted the style, symbol and series of "lettering sets," as required by Federal Specification GG-L-256D which was part of the IFB. Linero states that it protested this matter "a number of times" to GSA prior to bid opening, but that GSA did not respond to its protest. Bid opening was on January 9, 1979, and Linero's protest was filed with our Office on August 7. Account 17

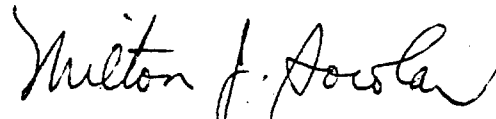
While Linero protested the alleged improprieties in the solicitation to the agency prior to bid opening, it did not file a protest with our Office until 7 months after bid opening. GSA's opening of bids without taking any action on Linero's protest is adverse agency action. See Jazco Corp., B-192407, August 31, 1978, 78-2 CPD 162. Since Linero's subsequent protest to our Office was filed more than 10 working days after Linero learned of or had reason to know of the bid opening, the protest is untimely. 4 C.F.R. § 20.2 (1979).

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Linero also alleges that GSA made award of several items at higher prices than Linero's. Linero states that it knew this more than one month before protesting. We find this portion of Linero's protest to be untimely too, since our procedures also require that such a protest be filed not later than 10 working days after the basis for the protest is known. See 4 C.F.R. §20.2(b) (2) (1979).

The protest is dismissed.

A handwritten signature in cursive script, reading "Milton J. Socolar".

Milton J. Socolar
General Counsel