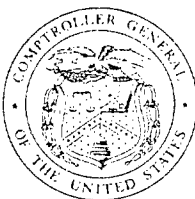


DECISION



13045 *Cooper*
THE COMPTROLLER GENERAL *Proced*
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-197450.2

DATE: March 6, 1980

MATTER OF: Professional Computer Services --
Reconsideration

D2-603871

DIGEST:

Where prior to bid opening bidder protests alleged improprieties in solicitation, agency's opening of bids without taking any corrective action constitutes initial adverse agency action on protest and prior decision dismissing as untimely subsequent protest filed with GAO more than 10 days after protester knew of bid opening is affirmed.

Professional Computer Services (PCS) requests reconsideration of our decision in Professional Computer Services, B-197450, February 7, 1980, where we dismissed the firm's protest as untimely.

[Protest]

PCS, alleging various deficiencies in the bid specifications, protested the award by the Department of the Interior, Bureau of Indian Affairs (BIA) of a contract under solicitation No. FAO-K01-80-3284. Although PCS initially filed a timely protest prior to bid opening with BIA, the agency opened bids as scheduled on December 11, 1979, without satisfying all of PCS's concerns. We held that the opening of bids on December 11, 1979 without the requested modification of the solicitation constituted adverse agency action and that the PCS protest filed with our Office on January 15, 1980 was untimely as it was not filed within 10 days of the protester's knowledge of initial adverse agency action on its protest to the agency. 4 C.F.R. § 20.2(a) (1979).

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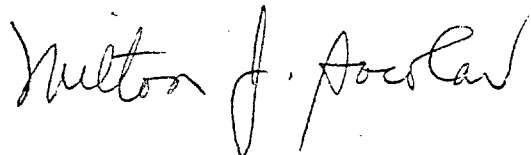
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PCS argues that its protest to our Office was filed within the 10-day time constraint since it did not receive notification of award until December 28, 1979.

Under section 20.2(a) of our Bid Protest Procedures, the 10-day requirement for filing a protest with our Office begins to run from the time the protester first has knowledge of initial adverse agency action on its protest. Although notification of an award to another bidder constitutes adverse agency action, we have long regarded the agency's opening of bids without its taking corrective action in response to a protest alleging solicitation deficiencies as the initial adverse agency action referred to in our Procedures. See, e.g., Leo Journagan Construction Co., Inc., B-192644, January 29, 1979, 79-1 CPD 59; General Leasing Corporation -- Reconsideration, B-193527, March 9, 1979, 79-1 CPD 170.

The decision is affirmed.



FOR THE Comptroller General
of the United States