

MS. Cooper
PLCG 14294

DECISION



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

FILE: B-199224

DATE: July 15, 1980

MATTER OF: W.B. Dickey Co.

DLA 04930

DIGEST:

[Protest alleging restrictive specifications] filed with GAO more than 10 days after initial adverse agency action on protest to agency is untimely. Agency's conducting bid opening without first taking corrective action urged by protester is considered to be adverse agency action under GAO's Bid Protest Procedures.

W.B. Dickey Co. (Dickey) protests the award of a contract by the Department of the Air Force (Air Force), MacDill Air Force Base, Florida, under solicitation No. F08602-80-BAL04. Dickey contends that the solicitation specifications are unduly restrictive.

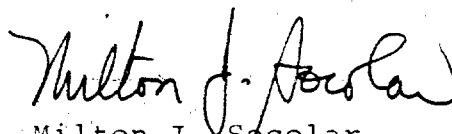
AGC 00243

Prior to filing a protest with our Office, Dickey protested to the procuring agency.

Although that protest was timely, its protest to our Office is untimely. Our Bid Protest Procedures, 4 C.F.R. § 20.2(a) (1980), require that if a protest is initially filed with the contracting agency in a timely manner, in order for any subsequent protest to our Office to be timely, it must be filed within 10 days of initial adverse agency action on the protest filed with the agency. Bid opening occurred on April 29, 1980. The Air Force's opening of bids on that date without having removed the restrictive provisions from the invitation for bids constituted adverse action. Picker Corporation; Ohio-Nuclear, Inc., B-192565, January 19, 1979, 79-1 CPD 31. We did not receive the Dickey protest until June 17, 1980, obviously well beyond the 10-day time constraint established by 4 C.F.R. § 20.2(a).

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The protest is dismissed.

A handwritten signature in cursive script, reading "Milton J. Socolar". The signature is written in dark ink and is positioned above the printed name and title.

Milton J. Socolar
General Counsel

GAO

United States General Accounting Office
Washington, DC 20548

Office of
General Counsel

In Reply
Refer to: B-199224

July 15, 1980


The Honorable Sam M. Gibbons
House of Representatives

Dear Mr. Gibbons:

We refer to your letter to our Office dated June 19, 1980 with reference to the protest of W.B. Dickey Co., concerning the award of a contract under solicitation No. FO8602-80-BA104, issued by MacDill Air Force Base, Florida.

By decision of today, copy enclosed, we have dismissed the protest.

Sincerely yours,



Milton J. Socolar
General Counsel

Enclosure

