

DECISION



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

14946

FILE B-199935

DATE: September 18, 1980

MATTER OF: Houston Fearless 76

DIGEST:

[Protest that sole-source award of contract was improper] is untimely where filed 18 working days after date of publication of notice of award in Commerce Business Daily (CBD), since protester is charged with constructive notice of CBD announcement and protest was not filed within 10 working days after basis of protest should have been known. 4 C.F.R. § 20.2(b)(2) (1980).

[Houston Fearless 76 (Houston) filed a protest] with GAO on August 11, 1980, [complaining that the Department of the Air Force's sole-source award of a contract for 16mm film processors was improper.]

[Notice of the award was published] in the June 16, 1980, Commerce Business Daily (CBD). [Houston received formal notice of the award from the Air Force on July 10, 1980.] Houston protested initially to the Air Force on July 11, 1980, and the Air Force denied the protest by letter of August 5 received by Houston on August 11.

For the following reasons, we are dismissing the protest as untimely.

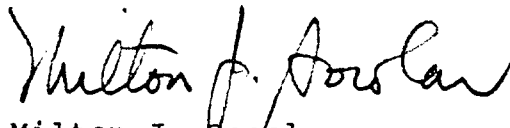
Our Bid Protest Procedures require that protests (other than those based upon alleged improprieties apparent in a solicitation) be filed with GAO or the contracting agency within 10 working days after the basis of the protest is known or should have been known, whichever is earlier. 4 C.F.R. § 20.2(b)(2) (1980). Our Procedures also provide that, [when a protest is

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filed initially with the contracting agency, we will consider a subsequent protest only if the protest to the agency was timely. 4 C.F.R. § 20.2(a).

[Houston did not have actual knowledge of its basis for protest until July 10, 1980. However, protesters are charged with constructive notice of announcements published in the CBD. Wang Laboratories, B-198434, May 9, 1980, 80-1 CPD 337. Therefore, Houston is charged with knowledge of its basis for protest after the June 16 publication of the CBD, allowing a reasonable period for receipt of the publication. Delphi Industries, Inc., 58 Comp. Gen. 248 (1979), 79-1 CPD 67.

[Houston did not file its protest with the Air Force until 18 working days after publication of the CBD announcement. Even allowing a full calendar week for receipt of the CBD, the protest is untimely by 3 working days and will not be considered on the merits.]



Milton J. Bocular
General Counsel