

DECISION



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

FILE: B-210700

DATE: March 23, 1983

MATTER OF: Edison Chemical Systems, Inc.

DIGEST:

Complaint against alleged improprieties in solicitation specifications, filed initially with Housing Authority before bid opening, but not filed with GAO until 2-1/2 months after opening, is not for consideration.

Edison Chemical Systems, Inc. (Edison), complains that the specifications for Housing Authority of the City of Pittsburgh Project No. PA-1-1 did not list its sealer product--System-90--as a brand name product that would be acceptable. This project is funded in part by modernization funds from the Department of Housing and Urban Development.

We dismiss the complaint as untimely.

It appears from the record that Edison wrote the Housing Authority on September 13, 1982, regarding the failure to include its product as a brand name. Bids were opened on November 16. While Edison has continued to correspond with the Housing Authority, we find it should have been clear to Edison when November 16 passed without the addition of its product as a brand name that further action should be taken. However, Edison did not file its complaint with our Office until February 3, 1983. Contract performance began January 25, 1983.

Grant complaints must be filed within a reasonable time to be considered by our Office. Our Bid Protest Procedures, applicable to direct Federal procurements, require that following a protest to the procuring activity any subsequent protest must be filed within 10 working days after the initial adverse agency action. 4 C.F.R. § 21.1(a) (1982). We have recognized that the opening of bids without the agency taking the requested action is the initial adverse agency action. Logan Industries, B-208858, November 30, 1982, 82-2 CPD 490. While these procedures are not directly applicable to grant complaints, we believe a delay of 2-1/2 months

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after opening to be unreasonable and the complaint not for consideration. Caravelle Industries, Inc., 60 Comp. Gen. 414 (1981) 81-1 CPD 317.

The complaint is dismissed.

Harry R. Van Cleve
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Acting General Counsel