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# DECISION



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

FILE: E-187353

DATE: October 6, 1976

MATTER OF: G. W. Galloway Company

## DIRECT:

Protest against allegedly restrictive specifications, received by both contracting agency and CAO subsequent to bid opening date and closing date for receipt of proposals, is untimely filed and ineligible for consideration on the merits.

G. W. Galloway Company protests allegedly restrictive specifications in invitation for bids (IFB) DSA400-76-B-4754 and request for proposals (RFP) DSA400-76-R-4673, issued by the Defense Supply Agency, Defense General Supply Center, Richmond, Virginia.

The contracting agency advises that the IFB called for bids on a requirement for 100 refuse containers conforming to MIL-R-00239543B(YD), and that bids were opened August 10, 1976, while the RFP, which was issued to cover a requirement for 279 refuse containers conforming to the same specification, had a closing date for receipt of proposals of August 18, 1976.

In a letter dated August 11, 1976, which the procuring activity advises it received on September 1, 1976, the protester complained that the restrictive nature of the specifications precluded it from submitting offers under either of the solicitations. The complaint is predicated upon the absence of drawings in the specification packages for an integral component which is purportedly the proprietary product of a particular firm which has refused to provide the protester with detailed prints of the item. By letter dated August 30, 1976, received in this Office on September 1, 1976, the protester enclosed a copy of its August 11, 1976, letter and reiterated its allegation that the solicitations were defective by virtue of the required use of the patented or proprietary products of a sole manufacturer.

Our Bid Protest Procedures, 4 C.F.R. Part 20 (1976), require in pertinent part, that protests based on alleged improprieties in any type of solicitation which are apparent

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prior to bid opening or the closing date for receipt of proposals must be filed prior to bid opening or the closing date. 4 C.F.R. 20.2(b)(1). The term "filed", as used in this section, means receipt in the contracting agency or in our Office, as the case may be. 4 C.F.R. 20.2(b)(3). Inasmuch as a protest was not filed with either the agency or our Office prior to the respective bid opening date or date for receipt of proposals, we must consider the protest as untimely filed and ineligible for our consideration on the merits. The protest is therefore dismissed.

*Milton J. Domb*  
for Paul G. Dembling  
General Counsel