

01301

DECISION



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

FILE: B-187303

DATE: November 16, 1976

MATTER OF: Granite State Machine Co., Inc.

DIGEST:

Protest based on failure of procuring activity to open bids on scheduled bid opening date, July 21, which date was extended by amendment that protester did not receive prior to July 21, is untimely under 4 C.F.R. § 20.2(b)(1) as protester acknowledged receipt of said amendment and two subsequent amendments and did not file protest until after bid opening on August 18.

Granite State Machine Co., Inc. (Granite), has protested the award of a contract to any other firm under invitation for bids (IFB) No. DAAA09-76-B-3052, issued by the United States Army Armament Command, Rock Island, Illinois.

The IFB was issued on May 10, 1976, and on the same date amendment 0001 was issued which contained a complete data package and extended the bid opening date to June 30, 1976. Amendment 0002 was issued on June 15, 1976, and extended the opening date to July 21, 1976. Amendment 0003, issued on July 27, 1976, increased the quantity for item 0004 to 28 and set the bid opening date for August 4, 1976. The bid opening date was further extended by amendment 0004 dated August 2, 1976, to August 18, 1976. Amendment 0005, issued August 10, 1976, made a technical specification change not relevant to the instant protest.

Granite's protest is based on the contention that its bid, as submitted for the bid opening date of July 21, was the low responsive bid and award should have been made at that time to Granite.

The contracting officer advises that a telex was sent to all bidders on July 16, 1976, advising that amendment 0003 would be forthcoming and that the bid opening date was being extended until August 4, 1976. Granite states that it never received this message and was not aware of amendment 0003 until it received the actual amendment on July 27, 1976.

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Subsequently, Granite acknowledged amendments 0003, 0004 and 0005 when it submitted its bid for opening on August 18, 1976.

The Army takes the position that the protest filed by Granite on August 26, 1976, with our Office is untimely under our Bid Protest Procedures, specifically 4 C.F.R. § 20.2(b)(1) (1976), which requires that protests based upon alleged improprieties in a solicitation which are apparent prior to bid opening must be filed prior to bid opening.

We agree that the protest is untimely and should have been filed with our Office no later than the bid opening date, August 18, 1976.

Therefore, the protest is not for consideration.

Milton Asstler
for Paul G. Dembling
General Counsel