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DECISION



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

FILE: B-188230

DATE: February 25, 1977

MATTER OF: Jaybil Industries Inc.

DIGEST:

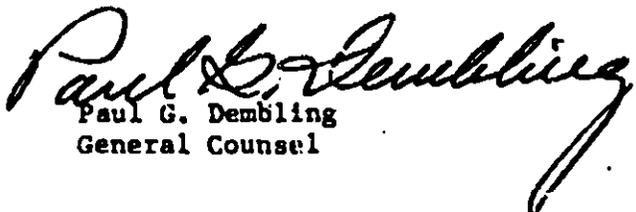
Protest alleging improper use of two-step formal advertising for procurement in lieu of usual one-step formal advertising procedure filed after closing date for receipt of technical proposals under two-step procedure is untimely and not for consideration on the merits.

By letter dated January 21, 1977, Jaybil Industries Inc. (Jaybil) protests against the procurement of storm windows and doors by two-step formal advertising under solicitation No. F41652-76-09065. Jaybil argues that the procurement should have been made by the usual one-step formal advertising procedure and that the present method "leans toward manufacturers only."

Jaybil states that it had received the two-step bid package but failed to submit a technical proposal under the first step. The solicitation indicates that the closing date for receipt of technical proposals was December 28, 1976. A notification included with the solicitation in the bid package informed offerors that bids could only be submitted based on technical proposals determined by the agency to be acceptable in step one.

Section 20.2(b)(1) of our Bid Protest Procedures, 4 C.F.R. Part 20 (1976) provides that protests based upon alleged improprieties in solicitations which are apparent prior to the closing date for receipt of initial proposals shall be filed prior to the closing date for the receipt of initial proposals or bid opening. Since the alleged defect, which is the method of procurement chosen, was apparent prior to the closing date for the receipt of initial technical proposals under the two-step procedure and Jaybil did not protest this alleged impropriety until after the December 28 closing date its protest is untimely. Randall Manufacturing Co., Inc., B-185363, December 10, 1975, 75-2 CPD 388.

Therefore, the merits of the protest will not be considered.


Paul G. Dembling
General Counsel