

DOCUMENT RESUME

03305 - [A2313444]

[Alleged Specification Impropriety]. B-189640. August 17, 1977.
2 pp.

Decision re: Alton Iron Works, Inc.; by Paul G. Dembling,
General Counsel.

Issue Area: Federal Procurement of Goods and Services (1900).
Contact: Office of the General Counsel; Procurement Law II.
Budget Function: National Defense; Department of Defense -
Procurement & Contracts (058).
Organization Concerned: Defense Supply Agency; Defense General
Supply Center, Richmond, VA.
Authority: 4 C.F.R. 20.2(b)(1) - B-184346 (1975).

The protester objected to the award of a contract, alleging that the delivery schedule incorporated into the subject invitation for bids was impossible to meet except from a known sole source. The protest was untimely, since protests against solicitation specifications must be filed prior to bid opening. (Author/SC)

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DECISION



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

FILE: E-189640

DATE: August 17, 1977

MATTER OF: Alton Iron Works, Inc.

DIGEST:

Protest by bidder against alleged specification impropriety which was filed subsequent to bid opening date is untimely since under section 20.2(b)(1) of our Bid Protest Procedures any protest against improprieties in invitation must be filed prior to bid opening.

By letter dated July 15, 1977, Alton Iron Works, Inc. (Alton) has protested against award of a contract for 850 explosion proof extension lights under invitation for bids (IFB) No. DLA400-77-B-2058 issued by the Directorate of Procurement & Production, Defense General Supply Center, Richmond, Virginia. Alton argues that the delivery schedule incorporated into the subject IFB is impossible to meet except from a known sole-source.

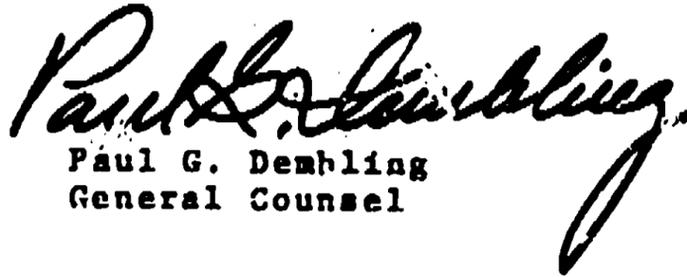
Specifically, it is asserted that the testing procedures called for under the applicable military specification, MIL-F-16377F, would require a minimum of 6 months for test completion of Alton's product, thus making it impossible for the protester to comply with the 120 day first article testing provision contained in the solicitation.

Section 20.2(b)(1) of our Bid Protest Procedures, 4 C.F.R. Part 20 (1976) provides in part that protests based upon alleged improprieties in solicitations which are apparent prior to bid opening shall be filed prior to bid opening. Since Alton's complaint is directed against the specification requirements its protest should have been filed prior to May 17, 1977, the date on which the subject IFB was opened. On

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that basis, Alton's protest, filed well after the bid opening date, must be regarded as untimely. Emerson Electric Co., B-184346, September 9, 1975, 75-2 CPD 141.

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


Paul G. Dembling
General Counsel