

DECISION



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

FILE: B-190574

DATE: January 11, 1978

MATTER OF: Astrocom Electronics, Incorporated

DIGEST:

Protest filed after bid opening date with procuring activity and GAO which challenges propriety of solicitation (failure to include first article testing requirement) is untimely under Bid Protest Procedures and not for consideration on merits.

On September 29, 1977, the Defense Logistics Agency (DLA) issued invitation for bids 400-77-B-4206 for the procurement of electrical cord assemblies, CX10767. October 19, 1977, was the bid opening date. By letter dated October 25, 1977, Astrocom protested to the procuring activity that since it had to run first article tests for electrical cord assemblies CX8650, the subject IFB was deficient because it did not require first article testing for all bidders.

Astrocom's protest challenges the propriety of the IFB. Since it was not filed with either the agency or our Office until after bid opening, it is untimely under our Bid Protest Procedures, 4 C.F.R. part 20 (1977), which provide in pertinent part as follows:

"§ 20.2 Time for filing.

(a) Protesters are urged to seek resolution of their complaints initially with the contracting agency. If a protest has been filed initially with the contracting agency, any subsequent protest to the General Accounting Office filed within 10 days of formal notification of or actual or constructive knowledge of initial adverse agency action will be considered provided the initial protest to the agency was filed in accordance with the time limits prescribed in paragraph (b) of this section, unless the contracting agency imposes a more stringent time for filing, in which case the agency's time for filing will control. In any case, a protest will be considered if filed with

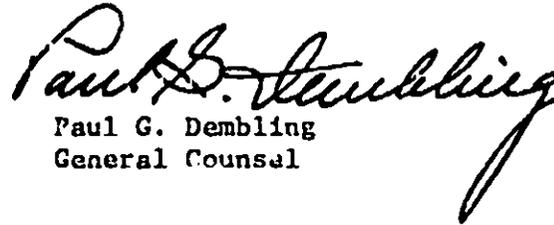
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the General Accounting Office within the time limits prescribed in paragraph (b).

(b)(1) Protests based upon alleged improprieties in any type of solicitation which are apparent prior to bid opening or the closing date for receipt of initial proposals shall be filed prior to bid opening or the closing date for receipt of initial proposals."

Based on the foregoing, the protest is dismissed.


Paul G. Dembling
General Counsel