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*Green - Proc  
Law*

**DECISION**



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

9206

FILE: B-193108

DATE: February 15, 1979

MATTER OF: Environmental Tectonics Corporation

**DIGEST:**

Protest filed after bid opening alleging that 15 day bidding period specified by solicitation afforded protester an inadequate time in which to prepare its bid is untimely since basis of protest was apparent prior to bid opening.

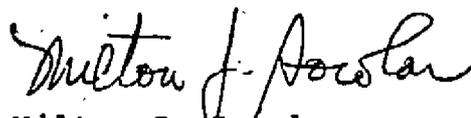
Environmental Tectonics Corporation (ETC) has protested the Department of Health, Education and Welfare, National Institutes of Health's (NIH) award of a contract for a sterilizer under invitation for bids (IFB) No. 263-78-B(89)-0242. ETC alleges that it was afforded an inadequate time to prepare a bid in violation of Federal Procurement Regulations (FPR) §§ 1-2.202-1 and 1-2.202-1(c) (1964 ed. amend. 118 and 178).

On September 11, 1978, NIH issued an IFB for the purchase of a sterilizer for use in a building being renovated for use as a laboratory animal breeding colony. The IFB provided for a bid opening date of September 26, 1978, or 15 days after issuance of the IFB. (NIH has stated that the short bidding time was required in order to make award before the end of the fiscal year, not only to avoid losing funds which had unexpectedly become available but to avoid continued delay in its renovation schedule.) On September 15, 1978, the IFB, including the bid opening date, was synopsisized in the Commerce Business Daily (CBD). The record indicates that ETC received the CBD on September 19, 1978, and thereafter requested a copy of the IFB. (ETC states that it requested the IFB on September 19, 1978, but NIH states that it has no record of a request for the IFB by ETC until September 25, 1978.) ETC did not request postponement of the bid opening. On September 26, 1978, NIH opened the two bids submitted in response to the IFB and award was made to Sybron, Medical Products Division on September 29, 1978.

ETC states that it was afforded an inadequate time to submit a bid in response to the IFB in violation of FPR § 1-2.202-1(c). FPR § 1-2.202-1(c) provides, as a general rule, that a minimum bidding time of 20 days be allowed for standard commercial items and 30 days for items other than standard commercial items. ETC alleges that since the sterilizer purchased by NIH is other than a standard commercial item that the minimum bidding time for the sterilizer should have been 30 days rather than the 15 days allowed by NIH.

Under our Bid Protest Procedures, a protest based upon an alleged impropriety in a solicitation which is apparent before bid opening must be filed either with the contracting agency or our Office prior to bid opening. 4 C.F.R. § 20.2(b)(1) (1978). ETC was aware of the short bidding time on September 19, 1978, when it received the CBD. It should have protested the short bidding time (and requested a postponement of the bid opening date) prior to bid opening on September 26, 1978. As we did not receive ETC's protest until October 5, 1978, nine days after bid opening, it is untimely and will not be considered. Bill Conklin Associates Inc., B-191148, February 17, 1978, 78-1 CPD 144.

The protest is dismissed.



Milton J. Socolar  
General Counsel