

DECISION



11735 *Truland*
Proc II
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-195745

DATE: October 22, 1979

MATTER OF: Zenith Controls, Inc.

DIGEST:

AGC 00041 *[Protest]* *DLB 03/19* *DLB 03/20*
Protest by supplier to subcontractor filed after bid opening for prime contract, alleging that IFB specifications were unduly restrictive is untimely since basis of protest was apparent prior to bid opening.

Zenith Controls, Inc. (Zenith) protests the Government's specifications required under a prime contract, No. DACA63-78-C-0174, between the Ben White Company and the Department of the Army, Corps of Engineers, Fort Worth District.

The protester, a supplier to a subcontractor of the Ben White Company, argues that the automatic transfer switch specified under the prime contract is unduly restrictive of competition. For the reasons that follow, we find the protest to be untimely.

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)(1979). We have been advised by the Corps of Engineers that award of the prime contract was made on September 18, 1978, with bid opening occurring just prior to award, and that Zenith did not protest the allegedly restrictive specification prior to bid opening. As Zenith did not file a protest with the Corps of Engineers or our Office prior to bid opening for the prime contract (we received Zenith's protest on August 10, 1979), its protest is untimely and will not be considered. Truland Corporation; Compugard Corporation, B-189505, September 26, 1977, 77-2 CPD 226.

The protest is dismissed.

Milton J. Sogolar
Milton J. Sogolar
General Counsel

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