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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**

WASHINGTON, D.C. 20548

12403

J. V. Vetter

Proc I

FILE: B-197078

DATE: January 2, 1980

MATTER OF: American Aquarius Waste Disposal

D3542

*[Protest of IFB Bid Bond Requirement]*

**DIGEST:** Protest filed after bid opening that IFB should not have required submission of bid bond and should have provided for use of Government facilities is untimely under 4 C.F.R. § 20.2(b)(1) (1979) since alleged improprieties were apparent prior to bid opening and protest should have been filed prior to bid opening.

American Aquarius Waste Disposal (American) has protested the requirement for submission of bid bonds in invitation for bids No. F04666-79-B-0060 issued at Beale Air Force Base, California.

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American's bid was rejected as nonresponsive for failure to include a bid bond or bid guarantee as required. American contends that the bond should not have been required since the IFB was a 100-percent small business set-aside and the requirement penalizes the small businessman.

As the requirement for bid bonds was evident from the face of the IFB, American's protest, filed after bid opening, was untimely filed under our Bid Protest Procedures (4 C.F.R. part 20 (1979)). Section 20.2(b)(1) requires protests based on alleged improprieties in a solicitation which are apparent prior to bid opening be filed prior to bid opening.

For the same reason, American's protest that the IFB did not provide for the use of Government facilities to wash the contractor's trucks is also untimely.

The protest is dismissed.

*Milton J. Socolar*

Milton J. Socolar  
General Counsel

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