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DECISION



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

FILE: B-212877

DATE: October 3, 1983

MATTER OF: Trinity Services Inc.

DIGEST:

Protest that contracting officer did not extend bid opening date to clarify alleged ambiguity in solicitation is dismissed where protests to contracting agency and to GAO were received after bid opening.

Trinity Services Inc. (Trinity) protests that the contracting officer did not extend the bid opening date to clarify an alleged ambiguity in invitation for bids (IFB) No. DACA65-83-B-0043 issued by the Army Corps of Engineers (Corps).

We dismiss the protest.

Trinity's protest concerns an alleged impropriety in the solicitation which was apparent prior to the bid opening and was required to be filed with our Office or the Corps prior to the time set for bid opening. 4 C.F.R. §§ 21.2(a) and (b)(1) (1983). For the purpose of our timeliness requirements, "filed" is defined as "receipt in the contracting agency or in the General Accounting Office as the case may be." 4 C.F.R. § 21.2(b)(3) (1983).

Bid opening for the IFB was scheduled for 10 a.m. on August 29, 1983.

The Corps advises that a mailgram protest to the agency was received in the contract branch. According to the Corps, mailgrams are not received in the mailroom until after 10 a.m., and, in this case, the mailgram protest of 12:59 p.m., August 26, 1983 (Friday), to the Corps was not delivered to the contract branch until 1:45 p.m. on August 29, 1983 (Monday). The mailgram refers to an earlier telegram, but the Corps states that none was received.

Trinity's two TWX protests to our Office were time/date stamped by our Office at 10:09 a.m. on August 30, 1983. The two TWX's indicate on the face that they were received on the TWX machine in our building on August 29, 1983, at 2:32 p.m. and 4:12 p.m., respectively.

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Thus, Trinity's protest will not be considered on the merits. See Keuffel & Esser Co., B-206229, February 9, 1982, 82-1 CPD 123.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel