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DECISION



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

FILE: B-210535

DATE: February 17, 1983

MATTER OF: The Big Picture Company

DIGEST:

1. Where protest alleging defect in solicitation is not filed until after bid opening, GAO Bid Protest Procedures generally require that such protest be dismissed as untimely. That rule is inapplicable, however, where protester did not receive amendment containing alleged defect until 1 day before bid opening and therefore did not have a reasonable opportunity to file protest before bid opening.
2. Protest that bid opening should have been extended is untimely when not filed within 10 days after protester knew or should have known that opening would not be extended.
3. Claim for bid preparation costs submitted in connection with an untimely protest will not be considered.

The Big Picture Company protests the contracting officer's denial of its request that he extend the bid opening date under invitation for bids (IFB) No. F41605-82-B-0045 issued by Laughlin Air Force Base, Texas. The protester contends that it did not receive an amendment to the solicitation, which changed the original bid opening date and modified "a significant aspect of the original specifications," until 1 day before the amended bid opening date. It argues, therefore, that it did not have an opportunity to revise its bid in time to meet the new opening date. We dismiss the protest.

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The solicitation was issued on October 19, 1982 with an amended bid opening date of December 21. The protester states that when it received the subject amendment, it contacted the contracting officer on December 20 and asked for an extension of the bid opening date, to which he "did not reply either negatively or affirmatively." We have been advised, however, that bid opening was conducted as scheduled on December 21.

Generally, to be timely under our Bid Protest Procedures, a protest must be filed prior to bid opening if, as here, it is based on alleged improprieties in the solicitation which are apparent on the face of the solicitation. 4 C.F.R. § 21.2(b)(1) (1982). In this case, however, since Big Picture did not receive the amendment until 1 day before bid opening, we believe that § 21.2(b)(1) is inapplicable because Big Picture did not have a reasonable opportunity to file its protest before bid opening. Culligan, Inc., 58 Comp. Gen. 307 (1979), 79-1 CPD 149.

Big Picture's protest is untimely, however, because in cases other than those covered by § 21.2(b)(1), bid protests must be filed not later than 10 working days after the basis for protest is known or should have been known, 4 C.F.R. § 21.2(b)(2); Culligan, Inc., *supra*. Here, Big Picture's protest was not filed with our Office until January 19, more than 10 working days after it knew or should have known that bid opening would not be extended.

Finally, the protester requests that we award it bid preparation costs. Our Office will not consider such a claim where it is submitted in connection with an untimely protest. Lee Roofing Co., B-201154, March 16, 1981, 81-1 CPD 197.

The protest and claim are dismissed.

Harry R. Van Cleve
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Acting General Counsel