



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Mitsui Seiki (USA), Inc.

File: B-236845

Date: September 29, 1989

DIGEST

Protest that specifications in an invitation for bids are restrictive is untimely where filed after bid opening.

DECISION

Mitsui Seiki (USA), Inc., protests the award of a contract to Marshall & Huschart Machinery Company under invitation for bids (IFB) No. DAAA08-89-B-0007, issued by the Army Materiel Command (AMC) for the procurement of one jig boring, drilling and milling machine. Mitsui contends that various specifications in the IFB are restrictive.

We dismiss the protest as untimely.

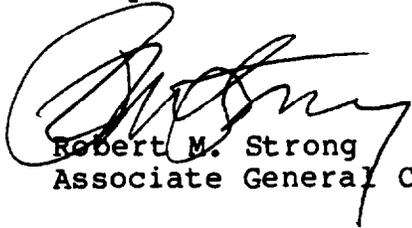
The IFB was issued on January 12, 1989. After three amendments to the solicitation, bid opening occurred on March 30. Mitsui's bid took exception to at least 18 of the specifications in the IFB and, as a result, was found to be nonresponsive. On September 7, Mitsui filed its protest with our Office, challenging the rejection of its bid and arguing that the solicitation was restrictive.

Our Bid Protest Regulations provide that protests based upon alleged improprieties in a solicitation that are apparent from its face must be filed prior to bid opening. 4 C.F.R. § 21.2(a)(1) (1989); ATD-American Co., B-227324, July 28, 1987, 87-2 CPD ¶ 103. The purpose of this requirement is to enable our Office to review the matter and take effective action, if warranted--for example, by recommending that the solicitation be amended--when most practicable. Portec--Request for Reconsideration, B-224537.2, Oct. 27, 1986, 86-2 CPD ¶ 480. Here, Mitsui concedes that it recognized that

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various specifications in the solicitation were restrictive in its view when the IFB was issued on January 12; however, the protester waited until September 7 to file its protest. Accordingly, the protest is untimely since it was filed after bid opening.

The protest is dismissed.



Robert M. Strong
Associate General Counsel