



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: ATD American Company

File: B-270605.2

Date: January 19, 1996

DECISION

ATD American Company protests the terms of invitation for bids No. 276-1053 issued by the Department of Justice. ATD contends that the specifications are defective.

ATD filed an agency-level protest against the terms of the solicitation by letter of November 21, 1995. The date of the bid opening was November 17. The agency dismissed ATD's protest as untimely because it was filed after the bid opening.

We dismiss the protest because the initial protest to the agency was not timely filed. Our Bid Protest Regulations contain strict rules for the timely submission of protests. Under these rules, protests based on alleged improprieties in a solicitation must be filed prior to bid opening or the time established for receipt of proposals. Section 21.2(a)(1), 60 Fed. Reg. 40,737, 40,740 (Aug. 10, 1995) (to be codified at 4 C.F.R. § 21.2(a)(1)). Further, our Regulations provide that a matter initially protested to the contracting agency subsequently will be considered by our Office only if the initial protest to the agency was filed within the time limits for filing a protest with our Office, unless the contracting agency imposes a more stringent time for filing, in which case the agency's time for filing will control. Section 21.2(a)(3), 60 Fed. Reg. *supra* (to be codified at 4 C.F.R. § 21.2(a)(3); Tandy Constr., Inc., B-238619, Feb. 22, 1990, 90-1 CPD ¶ 206.

These timeliness rules reflect the dual requirements of giving parties a fair opportunity to present their cases and resolving protests expeditiously without unduly disrupting or delaying the procurement process. Air Inc.-Request for Recon., B-238220.2, Jan. 29, 1990, 90-1 CPD ¶ 129. In order to prevent those rules from becoming meaningless, exceptions are strictly construed and rarely used. *Id.*

The protest is dismissed.

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