

DECISION



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

50828 97149

FILE: B-183996

DATE: June 25, 1975

MATTER OF: Commercial Communications Company

DIGEST:

Since protester did not protest allegedly arbitrary and restrictive IFB specifications, which were contended to have been based on successful bidder's equipment, prior to bid opening, its protest is untimely and not for consideration.

This is a protest by Commercial Communications Company (Commercial) against the award of a contract to Baker Associates, under solicitation (IFB) No. 4PN-B-A-2341-1, issued by the General Services Administration for a background music and paging system. Commercial contends that the purchase description used in the solicitation was arbitrary and restrictive and, therefore, true competitive bidding was not permitted.

The record indicates that bids were opened on May 16, 1975. On the same day, but after bid opening, an official of Commercial telephoned the procuring activity and was informed that Commercial's bid had been received after the time set for bid opening and, therefore, would not be considered. On May 23, 1975, a letter dated May 19, 1975, was received in our Office protesting the award. At no time prior to bid opening did Commercial raise any allegations concerning the specifications to the procuring activity.

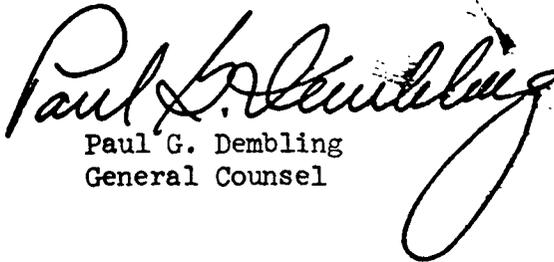
Section 20.2(a) of our Bid Protest Procedures and Standards (4 C.F.R. § 20.1, et seq. (1974)) states in pertinent part:

"(a) * * * Protests based upon alleged improprieties in any type of solicitation which are apparent prior to bid opening or the closing date for receipt of proposals shall be filed prior to bid opening or the closing date for receipt of proposals. * * *"

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Since *Commercial* did not protest the allegedly arbitrary and restrictive IFB specifications prior to bid opening, its protest is untimely.

Therefore, the merits of the protest will not be considered.



Paul G. Dembling
General Counsel