

DECISION



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

38898

FILE: B-184281

DATE: September 2, 1975

97568

MATTER OF: Gemini Food Services, Inc.

DIGEST:

Protest filed after bid opening based on alleged lack of time to revise prices subsequent to issuance of amendments to solicitation is untimely in accordance with section 20.2(b)(1) of Bid Protest Procedures.

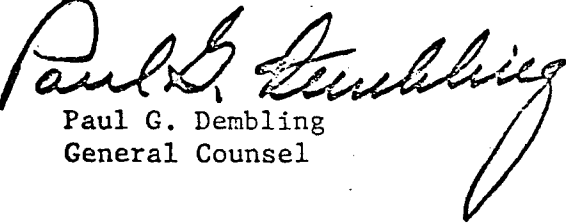
In a telefax to our Office dated July 16, 1975, Gemini Food Services, Inc. (Gemini), protested any award of a contract under invitation for bids (IFB) DABT27-75-B-0064 issued by the Procurement Division, Fort Polk, Louisiana, contending that amendment Nos. 3 and 4 to the IFB did not afford bidders adequate time to revise their prices in light of the schedule and award factor changes made by amendment No. 4. The Army contends that Gemini's protest is untimely in that the basis for the protest was apparent prior to bid opening but the protest was not filed with the contracting officer until June 26, 1975, which is two days after bid opening.

Solicitation No. DABT27-75-B-0064 was issued by the Department of the Army on May 16, 1975, for designated services at Fort Polk. Amendment No. 003, dated June 13, 1975, extended the June 16, 1975, opening date to June 24, 1975. Amendment No. 0004 dated June 16, 1975, made certain changes in the schedules. Prior to resolution of the June 26 protest with the agency, Gemini filed a protest with our Office on July 16, 1975 (received on July 17, 1975), contending that insufficient time was allowed subsequent to the issuance of the amendments to permit bidders to revise their prices. In this regard, section 20.2(b)(1) of our Bid Protest Procedures, 40 Fed. Reg. 17979 (1975), states that "protests based upon alleged improprieties in any type of solicitation which are apparent prior to bid opening * * * shall be filed prior to bid opening * * *."

The record discloses that Gemini submitted its bid prior to bid opening but failed to protest until after bid opening. Since the alleged lack of time to revise bids was apparent prior

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to bid opening and Gemini's protest was not filed until after opening, its protest is untimely and will not be considered on the merits. See Dyneteria, Inc., B-184281, July 10, 1975, wherein we declined to consider a protest on similar grounds under the same procurement.


Paul G. Dembling
General Counsel