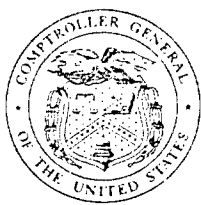


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**DECISION**

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

FILE: B-196616

DATE: December 19, 1979

MATTER OF: H & M Tent Corporation

D. 3518

*[Protest ALLEGING]*

**DIGEST:**

Protest filed after bid opening which questions IFB's labor surplus area concern requirement is untimely and not for consideration on merits under GAO Bid Protest Procedures as it relates to alleged impropriety in solicitation which was apparent in solicitation prior to bid opening.

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H & M Tent Corporation (H & M) protests the award of a contract under the United States Coast Guard's invitation for bids (IFB) No. CG-IFB-05-81-79. The solicitation was a total small business-labor surplus area set-aside, and H & M, the low bidder, was declared nonresponsive because it was not in a labor surplus area. H & M argues that the IFB's labor surplus restriction eliminates a large percentage of small business and substantially increases the cost to the Government.

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We believe that it is clear from the protester's submission after award that the protest is untimely under our Bid Protest Procedures, 4 C.F.R. § 20.2(b)(1) (1979), and, therefore, not for consideration on the merits.

Since the protest questions the labor surplus area restriction, it relates to an alleged impropriety in the solicitation which was apparent from the IFB prior to bid opening. Under our Bid Protest Procedures it should have been filed prior to bid opening. 4 C.F.R. § 20.2(b)(1) (1979). Burrelle's Press Clipping Service, B-196126, November 6, 1979, 79-2 CPD. \_\_\_.

The protest is dismissed.

*Milton J. Socolar*  
Milton J. Socolar  
General Counsel

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*Untimely bid protests  
Contract awarded  
Invitations for bids  
Solicitation specifications*