

Ruppert, P.L.I

14593

DECISION



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

FILE: B-199750

DATE: August 13, 1980

MATTER OF: Data Card Corporation

DLG 05080

DIGEST:

Protest filed after bid opening which alleges restrictive specifications is untimely under GAO Bid Protest Procedures and, therefore, not for consideration on merits.

By letter dated July 23, 1980, Data Card Corporation (Data) submitted a protest to our Office and to the contracting activity alleging unfair and restrictive specifications in solicitation No. MDA903-80-B-0101, issued by the Defense Supply Service, for large mailing systems and services. Data's protest was filed (i.e., received) in our Office on July 28, 1980, and bids were to be opened on July 24, 1980. We are advised that the protest to the contracting activity was not received prior to bid opening.

AGC 00826

Our Bid Protest Procedures require that protests based upon alleged improprieties in a solicitation which are apparent prior to bid opening must be filed prior to bid opening. 4 C.F.R. § 20.2(b)(1) (1980). The term "filed," as used in this section, means receipt in the contracting agency or in our Office, as the case may be. 4 C.F.R. § 20.2(b)(3) (1980).

Since the protest questions the specifications, it relates to an alleged impropriety in the solicitation which was apparent from the IFB prior to bid opening and any such protest filed thereafter is now untimely and not for our consideration. Kreonite, Inc., B-199361, July 22, 1980, 80-2 CPD ____; H & M Tent Corporation, B-196616, December 19, 1979, 79-2 CPD 421; Dennison KYBE Corporation, B-196655, November 28, 1979, 79-2 CPD 378.

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[Protest A

THAT SOLICITATION
WAS Unfair and Restrictive]

Accordingly, the protest is dismissed.

Harry R. Van Clave
for Milton J. Socolar
General Counsel