

Mr. Melody

18487

DECISION



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

FILE: B-203377.2

DATE: June 16, 1981

MATTER OF: Gentex Corporation

DIGEST:

Protest based on improprieties on face of solicitation is untimely and thus not for consideration on merits, when filed after bid opening.

Gentex Corporation (Gentex) protests the opening of bids under invitation for bids (IFB) No. DLA 100-81-B-0772, which sought offers to supply a quantity of SPH-4 Helmets to the Defense Logistics Agency's (DLA) Defense Personnel Support Center in Philadelphia, Pennsylvania. The protester contends that the terms of the IFB improperly preclude bids on a helmet which is the "commercial equivalent" to the Government specification item. The protest is untimely.

Our Bid Protest Procedures, 4 C.F.R. § 20.2(b)(1) (1980), require that protests based upon alleged improprieties apparent on the face of a solicitation be filed prior to bid opening. The protester's objection concerns restrictions which appear on the face of the solicitation. Accordingly, this protest, in order to be deemed timely, was required to be filed in our Office prior to bid opening. We have been advised by DLA that bids here were opened on June 2, 1981. Since Gentex's protest was not received until June 3, 1981, it is untimely and thus will not be considered on the merits. Wells Fargo Guard Services, B-203226, May 27, 1981, 81-1 CPD _____; Dynation Corporation, B-201342, December 10, 1980, 80-2 CPD 423.

Because we find the protest is untimely, a conference on the matter, as requested by Gentex, would serve no useful purpose. deWeaver and Associates, B-200541, January 6, 1981, 81-1 CPD 6.

[Protest Alleging Improprieties in IFB]

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The protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel