

DECISION

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

FILE: B-207368

DATE: June 11, 1982

MATTER OF: Pitt Con Preinsulated Pipes Corporation

DIGEST:

An alleged impropriety in a solicitation, not raised until after bid opening, is untimely and will not be considered on the merits.

Pitt Con Preinsulated Pipes Corporation, a proposed subcontractor of Merritt Mechanical, protests the rejection of Merritt's bid under invitation for bids (IFB) No. N62474-80-B-9526, issued by the Department of the Navy. The solicitation was for the construction of a high temperature water distribution system at Camp Pendleton, California. Merritt's bid was rejected as nonresponsive because, contrary to the express requirements of the specification, it offered to provide non-metallic pipe casing without cathodic protection. Pitt Con, the proposed supplier of the nonconforming pipe, contends that the specification covering pipe casing deviated from the Federal Agency Criteria established for underground heat distribution systems, and thus was not controlling. We dismiss the protest as untimely.

Our Bid Protest Procedures, 4 C.F.R. Part 21 (1981), require that protests based on alleged improprieties in the solicitation, which are apparent prior to bid opening, be filed prior to bid opening. 4 C.F.R. § 21.2(b)(1). The requirements for the pipe casing in question here were incorporated in the IFB under paragraph 4.7.1.3 of the specification. If Pitt Con desired to take exception to the use of this specification, it was required to do so prior to January 12, 1982, the date bids were opened. Pitt Con's protest

was not received in our Office until May 10, however, and it is therefore untimely and not for consideration on the merits. See Keuffel & Esser Co., B-206228, February 9, 1982, 82-1 CPD 123; Johnson Controls, Inc., B-206141, February 17, 1982, 82-1 CPD 142.

The protest is dismissed.

Harry R. Van Cleve
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Acting General Counsel