

DECISION

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

Mr. Ferraro
P. J. I 118743

FILE: B-206841

DATE: June 22, 1982

MATTER OF: Lamptek Co.

DIGEST:

A protest against alleged improprieties in an invitation for bids submitted in an envelope which agency did not open until bid opening because of reasonable belief that envelope contained a bid is untimely because GAO Bid Protest Procedures require filing of protest prior to, not at, bid opening.

Lamptek Co., Division of Lamps Inc. (Lamptek), protests the award of contracts by the Defense General Supply Center, Richmond, Virginia (DGSC), under invitation for bids (IFB) No. DLA400-82-B-2331, because of an allegedly ambiguous packaging clause in the IFB.

The IFB provided that bids would be opened at 11:15 a.m. on February 23, 1982. At bid opening, DGSC opened an envelope containing what was believed to be Lamptek's bid, which had arrived a day earlier. However, the envelope contained only the first two pages of the IFB (without price schedules) and a letter dated February 17, 1982, protesting the alleged ambiguous packaging clause. Prior to bid opening, DGSC had no knowledge of the contents of the envelope. The envelope cited the IFB number and the bid opening time and was properly addressed, as specified in the IFB, to the agency bid custodian to whom it was delivered.

Our Bid Protest Procedures require that a bid protest based upon, as here, 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) (1981). We have consistently held that a protest against alleged improprieties in a solicitation filed at bid opening with a bid is untimely

under this standard. Bell & Howell Company, B-203235.4, January 5, 1982, 82-1 CPD 10; American Can Company - Reconsideration, B-186974, August 19, 1976, 76-2 CPD 178; Emerson Electric Co., B-184346, September 9, 1975, 75-2 CPD 141. Similarly, where an agency reasonably believes that an envelope received prior to bid opening containing a protest is a bid and does not open the envelope until the scheduled bid opening, the protest is untimely as filed at, not prior to, bid opening. Cf. Peck Iron and Metal Co., B-191657, October 3, 1978, 78-2 CPD 253. Since the Lamptek envelope was specifically addressed to the bid custodian and cited the solicitation number and bid opening time, the agency reasonably treated the protest as a bid.

Accordingly, the protest is dismissed as untimely.

Harry R. Van Cleve

Harry R. Van Cleve
Acting General Counsel