

Berger



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: T&A Painting, Inc.

File: B-236847

Date: September 12, 1989

DIGEST

Protest that bid was improperly rejected as late because agency did not furnish protester with solicitation amendment in time for protester to submit a timely bid is untimely when filed after bid opening since protester, upon receipt of amendment 3 days prior to bid opening, should have protested prior to bid opening if it regarded the time remaining as inadequate.

DECISION

T&A Painting, Inc., protests the rejection of its bid as late under invitation for bids (IFB) No. F64133-89-B-0017, issued by Andersen Air Force Base, Guam. T&A asserts that its bid was late because the Air Force did not timely furnish it a copy of IFB amendment No. 1.

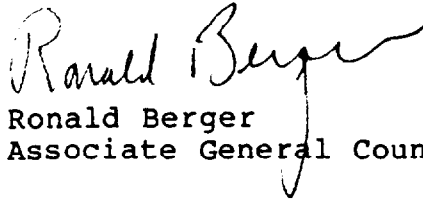
According to T&A, it was in the process of sending its bid by courier on August 22, 1989, when, 3 days before the August 25 bid opening, it received IFB amendment No. 2. As it had never received any other amendment, it contacted Andersen by telephone and requested that a copy of amendment No. 1 be telefaxed to it. T&A states that it received the telefaxed copy too late on August 22 to revise its bid and meet the courier schedule for that day. Accordingly, it sent its bid by courier on August 23.

T&A's complaint that the Air Force did not permit sufficient time for it to review the IFB amendment, revise its bid based on the amendment, and submit a bid by the bid opening time is untimely. Our Bid Protest Regulations require a bidder to complain about a defect in a solicitation prior to bid opening. See 4 C.F.R. § 21.2(a)(1) (1988). The IFB clearly set forth the time and date for bid opening. If, upon receipt of amendment No. 1, T&A considered the specified bid opening date to be inappropriate, it should have requested an extension or protested the bid opening

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date to either the Air Force or our Office. Instead, it sent its bid by courier 2 days prior to bid opening (T&A states that "it requires two days to deliver a package to Guam") and protested only after its bid was rejected as late. Such a protest simply is untimely and therefore will not be considered.

The protest is dismissed.

A handwritten signature in cursive script, appearing to read "Ronald Berger".

Ronald Berger
Associate General Counsel