



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: B & B Security Consultants, Inc.

File: B-251669

Date: April 6, 1993

Willie Borden for the protester.
Karl Dix, Jr., Esq., and George Papaioanou, Esq., Smith, Currie & Hancock, for The Taylor Group, Inc., an interested party.
Michael E. Bower, Esq., and Kenneth R. Pakula, Esq., Environmental Protection Agency, for the agency.
Sylvia Schatz, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency improperly denied bidder's request to extend the bid opening date after protester's late receipt of solicitation amendment is untimely where filed after bid opening.

DECISION

B & B Security Consultants, Inc. protests the Environmental Protection Agency's (EPA) denial of its request for an extension of the bid opening date under invitation for bids (IFB) No. W103292A2, for security guard services at EPA buildings in Washington, D.C.

We dismiss the protest as untimely filed.

Amendment No. 3 to the IFB, dated November 6, 1992, contained several revisions to the IFB and extended the bid opening date from October 27 to November 23. B & B did not receive the amendment but, after learning of its issuance from a source other than EPA, called the agency on November 10 and requested a copy of it. On November 16, B & B had not yet received the copy and again called the agency to renew its request. On the same day, EPA sent the firm copies of the amendment by both mail and telefacsimile transmission. B & B called EPA later that day to advise that the telefaxed copy it received was missing page 4, which contained the revised bid opening date and a few of the revisions to the IFB. The agency reportedly immediately telefaxed page 4 to the protester, but B & B states that it never received this transmission. On November 20, B & B

received the copy of amendment No. 3 previously mailed by the agency.

On November 23, B & B requested by telephone that EPA extend the bid opening to some later date. The agency denied the request, and the protester filed an agency-level protest on December 2, challenging the agency's refusal. B & B subsequently (before EPA responded to its agency-level protest) filed this protest with our Office, similarly alleging that it was improper for EPA to deny its extension request given its late receipt of the amendment and resulting limited time to prepare a revised bid.

Under our Bid Protest Regulations, a protest based on alleged improprieties apparent on the face of a solicitation must be filed with the contracting agency or our Office prior to the time set for bid opening. 4 C.F.R. § 21.2(a)(1) (1992); T&A Painting, Inc., B-236847, Sept. 12, 1989, 89-2 CPD ¶ 231. B & B had all four pages of amendment No. 3 no later than November 20, that is, 3 days before bid opening. Thus, if B & B considered the 3 remaining days inadequate to prepare its bid based on the amendment, it was or should have been aware of this as of November 20. Instead of promptly filing a protest on this basis with either the agency or our Office, B & B did not file its agency-level protest until December 2, after the November 23 bid opening date. This protest thus was untimely. See T&A Painting, Inc., *supra*. Although B & B claims it called the contracting officer on November 23 to request an extension of the opening date (the contracting officer denies he spoke to B & B on that date), this did not constitute a timely protest. In order to be effective, a protest must be in writing; an oral complaint is not sufficient. Digital Techniques, Inc., B-243795, May 31, 1991, 91-1 CPD ¶ 520.

Since B & B's agency-level protest was untimely, its protest to our Office is also untimely and therefore will not be considered. 4 C.F.R. § 21.2(a)(3); Industrial Packaging Co., Inc., B-243196, May 13, 1991, 91-1 CPD ¶ 462.

The protest is dismissed.



John M. Melody
Assistant General Counsel