



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: United Kleenist Organization

File: B-257653

Date: July 29, 1994

DECISION

United Kleenist Organization protests the Department of the Navy's rejection of its bid under solicitation No. N62472-94-B-0801.

We dismiss the protest.

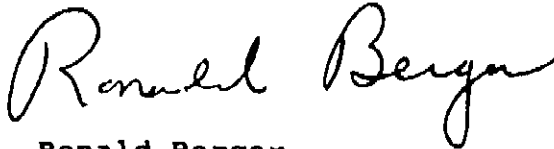
The solicitation was issued as a small business set-aside. United Kleenist's bid stated that it was an incorporate nonprofit organization. By letter of April 28, 1994, received by United Kleenist on May 4, the agency rejected the bid as because a nonprofit organization does not qualify as a small business. On May 8, United Kleenist filed what it characterized as a protest with the Small Business Administration's (SBA) Office of Hearings and Appeals, and provided the contracting officer with a copy of that letter. On May 23, after learning that the SBA would not consider the matter, United Kleenist filed an agency-level protest. On June 9, the Navy declined to consider the protest on the grounds that it was untimely filed. United Kleenist then filed its protest in our Office on June 20.

Our Bid Protest Regulations contain strict rules requiring timely submission of protests. Under these rules, protests based on alleged improprieties in a solicitation must be filed prior to bid opening or the time established for receipt of proposals. Protests not based upon alleged improprieties in a solicitation must be filed no later than 10 working days after the protester knew, or should have known, of the basis for protest, whichever is earlier. 4 C.F.R. § 21.2(a)(2). Further, our Regulations provide that a matter initially protested to the contracting agency will be considered only if the initial protest to the agency was filed within the time limits for filing a protest with our Office. 4 C.F.R. § 21.2(a)(3); Tandy Constr., Inc., B-238619, Feb. 22, 1990, 90-1 CPD ¶ 206.

This protest, to be timely, had to be filed either with the contracting agency or our Office within 10 working days of May 4. United Kleenist "protested" to the SBA's Office of

Hearings and Appeals within that time, but did not protest to the contracting officer until May 23 (the date the agency received United Kleenist's protest letter dated May 19), which is not within the required time frame. That being so, the subsequent protest to our Office is untimely and will not be considered.

The protest is dismissed.

A handwritten signature in cursive script that reads "Ronald Berger". The signature is written in dark ink and is positioned above the printed name and title.

Ronald Berger
Associate General Counsel