



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: CF Flag Company

File: B-261844

Date: July 12, 1995

### DECISION

CF Flag Company protests its consideration for award of a backup contract by the General Services Administration, Federal Supply Service, under solicitation No. 7FXG-R4-94-8301-S. CF Flag contends that the terms of the backup clause are illegal and that even though "the backup clause was in the solicitation, it was not brought to the attention of the bidders as a new clause."

We dismiss the protest as untimely filed on June 27, 1995, because it challenges an alleged impropriety in the solicitation that should have been protested before the April 21 bid opening.

Our Bid Protest Regulations contain strict rules requiring timely submission of protests. These rules specifically require that protests based upon alleged improprieties in a solicitation which are apparent prior to bid opening must be filed prior to bid opening. 4 C.F.R. § 21.2(a)(1); Manatts, Inc., B-237532, Feb. 16, 1990, 90-1 CPD ¶ 287. Here, since the backup clause was included in the solicitation, CF Flag was on notice of its ground of protest in this regard; thus, to be timely any protest on this basis should have been filed prior to bid opening. Since the protest was not filed until over 2 months after award had been made under the solicitation, it is untimely.

The protest is dismissed.

*Christine S. Melody*  
Christine S. Melody  
Acting Associate General Counsel

064160/154783