

DECISION



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

FILE: B-214737.3

DATE: May 18, 1984

MATTER OF: Koolshade Corporation

DIGEST:

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

Koolshade Corporation (Koolshade) protests any award of a contract under invitation for bids (IFB) No. 84-4 issued by the Department of Labor for solar control film on the basis that the product specified in the solicitation does not meet the government's needs for the project.

We dismiss the protest as untimely.

The IFB provided that bids would be opened at 10 a.m. on March 16, 1984.

The agency has informally advised that the following took place. At 9:36 a.m. on March 16, an outside messenger delivered two envelopes attached by a paper clip to Labor. Both envelopes were properly addressed, as specified in the IFB, to the agency office designated for receipt of bids. Prior to bid opening, Labor had no knowledge of the contents of either envelope. At bid opening, Labor opened both envelopes and discovered that one envelope contained Koolshade's protest while the other envelope contained another firm's bid.

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) (1983). We have held that 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. Lamptek Co., B-206841, June 22, 1982, 82-1 CPD 616. Since the Koolshade envelope was specifically addressed to the agency office designated for receipt of bids, the agency reasonably treated the protest as a bid.

Accordingly, the protest is dismissed.

Harry R. Van Cleve
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Acting General Counsel