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DECISION



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

FILE: B-204795

DATE: September 28, 1981

MATTER OF: Chase Instruments Corp.

DIGEST:

Protest based upon labor surplus set-aside provisions in an invitation for bids concerns apparent impropriety in the solicitation and is untimely under 4 C.F.R. § 21.2(b)(1) where the protest is filed after bid opening.

Chase Instruments Corp. (Chase) protests the impending award of a contract for certain test tubes by the Department of Agriculture under invitation for bids No. 7-M-APHIS-8N. The protest is dismissed.

Chase's protest is based upon provisions of the solicitation which establish a labor surplus set-aside. Chase asserts that the set-aside gives Arrow Glass Co., the apparent successful bidder, an unfair advantage.

Our Bid Protest Procedures, 4 C.F.R. § 21.2(b)(1) (1981), require that protests based upon alleged improprieties apparent on the face of an invitation for bids be filed prior to bid opening. The bid opening date here was August 11, 1981. Chase did not file its protest in our Office until September 16, 1981. Clearly, the protest is untimely. American Mutual Protection Bureau, B-201419.2, August 31, 1981, 81-2 CPD 187.

The protest is dismissed.

Harry R. Van Cleve

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Acting General Counsel

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