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DISC issued solicitation 0043 on October 13, 1981, and solicitation 0211 on November 6, covering, respectively, requirements for 12,000 sleeve bolts and 10,000 special bolts. The solicitations were synopsized in the Commerce Business Daily (CBD). Each solicitation listed two companies as approved sources of supply for these items. Both approved sources submitted offers; none was submitted by the protester. Solicitation 0334, which was issued on November 25 and also synopsized in the CBD, covered a requirement for 15,000 panel fasteners. The same two companies were listed as approved sources and both submitted offers. This time the protester also submitted an offer. DISC's Directorate of Technical Operations determined that the protester was not an approved vendor and, therefore, its offer was not considered.

Under purchase request 474, DISC solicited quotations by telephone from the two OEM-approved sources cited in the purchase request. The protester was not solicited. There is no indication that the solicitation was synopsized in the CBD. Award was made on September 1 to the low-priced offeror.

By its letter to the agency of January 12, 1982, the protester complained of awards made in response to purchase request 474 and under solicitations 0211 and 0043. By letter of February 26, Space-Lok also protested the contract awarded under solicitation 0334. The agency denied all the protests by letter of March 22. The protester then filed this protest with this Office.

Space-Lok's arguments can be distilled into two basic grounds of protest. First, the protester believes that it is qualified to produce the needed parts, and therefore should have been allowed to compete. Second, Space-Lok questions the status as an approved source of each of the firms listed as such in the OEM's source control documents.

Neither ground of protest was timely raised in connection with any of the solicitations. Our Bid Protest Procedures require that protests based on alleged solicitation improprieties that are apparent prior to the closing date for receipt of initial proposals must be filed before that date. 4 C.F.R. § 21.1(b)(1) (1982). As indicated earlier, synopses of solicitation Nos. 0043, 0211 and 0334 were published in the CBD; the closing dates for receipt of initial proposals were November 12, December 8 and December 28, respectively. Publication of a procurement in the CBD constitutes constructive notice of the solicitation and its contents. CMI Corporation, B-206349, March 8, 1982, 82-1 CPD 212. Consequently, the protester is charged with the knowledge that it was not considered an approved source, and therefore would not be allowed to compete, and with knowledge of which firms had been listed as approved sources of supply. The record shows that the protester first raised these issues in its letter of protest to the agency dated January 12, 1982. Because these alleged solicitation defects were not raised with either DLA or this Office prior to any of the dates set for receipt of initial proposals, the protest issues regarding these solicitations are untimely and will not be considered. See Paulmar, Inc., B-207321, May 27, 1982, 82-1 CPD 503.

With regard to the procurement of the needs represented by purchase request 474, there is no indication in the agency report that a formal solicitation package was prepared or that a synopsis of the procurement was published in the CBD. Quotations were solicited from the two approved sources by telephone. Here, we conclude that the protest is untimely because it was not filed within 10 days of the time the basis of the protest was known or should have been known. 4 C.F.R. § 21.2(b)(2).

With its protest to the agency in January 1982, the protester submitted a copy of a letter, addressed to DISC and dated September 17, 1981, in which it cited purchase request 474 and quoted a price lower than that offered by the manufacturer to whom award had

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**DECISION**



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

**FILE:** B-204959.2

**DATE:** November 12, 1982

**MATTER OF:** Space-Lok Inc.

**DIGEST:**

1. Protest of the designation of certain manufacturers as approved sources of supply is dismissed as untimely where procurements were announced in Commerce Business Daily and the alleged impropriety was apparent from the face of the solicitations but the protest was not filed prior to the closing date for receipt of initial proposals.
2. Where the protester knew that the agency was engaged in a procurement, and through the exercise of reasonable diligence could have discovered the basis of a protest, protest filed several months after contract was awarded is untimely.

Space-Lok, Inc. protests the award of four contracts under an oral solicitation conducted pursuant to purchase request YPI81231000474 (474) and under solicitation Nos. DLA500-82-R-0043 (0043), DLA500-82-R-0211 (0211) and DLA500-82-R-0334 (0334), issued by the Defense Industrial Supply Center (DISC), Defense Logistics Agency, for the procurement of special fasteners to be used on military aircraft. This protest follows the agency's denial of a similar protest filed with it by the protester. The protest is untimely and will not be considered.

In each of these procurements, DISC sought to procure fasteners by reference to General Dynamics Corporation or McDonnell Douglas part numbers. These two firms had designed and manufactured the original equipment on which the fasteners were to be used and are referred to as original equipment manufacturers (OEMs). Each OEM maintains the specifications for the

control documents. These source control documents identify only two manufacturers as approved sources of supply. The protester is currently in the process of submitting to the OEMs the results of tests on certain of its products in an effort to become an approved source.

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been made. Because it was received well after award of the contract and did not refer to the OEM part number, the letter was apparently ignored. This letter indicates, however, that at least by September 17, the protester was aware that a procurement was being conducted in response to this purchase request. Through the exercise of reasonable diligence, the protester could have learned all of the details of the procurement and thus would have known of any basis of protest. Bell & Howell Company, B-203235.4, January 5, 1982, 82-1 CPD 10. The protester failed to raise any issue in regard to purchase request 474 prior to January 12, 1982. This was several months after the award and well after 10 days after any basis of protest was or should have been known. The issues raised involving this purchase request are therefore dismissed as untimely. Kerper House, Inc., B-205516, March 2, 1982, 82-1 CPD 185.

The protest is dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel