

**DECISION**

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

FILE: B-210685

DATE: February 17, 1983

MATTER OF: Peabody Barnes Inc.

**DIGEST:**

Protest against specifications and delivery schedule in a solicitation is dismissed as untimely when filed after bid opening because GAO Bid Protest Procedures require filing prior to bid opening where alleged improprieties are apparent before bid opening.

Peabody Barnes Inc. (Peabody) protests against the specifications used by the Department of the Army in solicitation No. DAAJ09-82-B-B324. Peabody alleges a number of discrepancies between the solicitation specifications and the military specifications incorporated therein and that the delivery schedule is impractical. Peabody filed its protest with our Office on February 2, 1983. Bid opening was held on January 26, 1983.

Section 21.2(b)(1) of our Bid Protest Procedures requires that a protest based upon alleged improprieties in an invitation for bids which are apparent prior to bid opening be filed prior to bid opening. 4 C.F.R. part 21 (1982). The specifications and delivery schedule and any objections thereto were ascertainable from reading the solicitation prior to bid opening. Since the basis of the protest was apparent before bid opening, but the protest was filed after bid opening, it is untimely. In accord with section 21.2(b)(1) of our Procedures, the protest is dismissed.

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

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