

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

26380

**FILE:** B-212987.2**DATE:** October 3, 1983**MATTER OF:** Radix II, Inc.**DIGEST:**

Protest against solicitation defects filed with GAO more than 10 working days after protester learns of agency's denial of protester's pre-closing-date protest to agency is untimely under GAO Bid Protest Procedures, 4 C.F.R. §§ 21.2(b) (1).

Radix II, Inc. (Radix), protests any award under request for proposals (RFP) No. DACA01-83-R-0060, issued by the United States Army Corps of Engineers (Corps). Radix contends the specifications are deficient and are impossible to perform, and the failure to provide ranking of evaluation factors is contrary to the Defense Acquisition Regulation.

By letter of August 5, 1983, Radix pointed out these alleged deficiencies to the contracting officer and requested corrective action. By letter dated August 22, 1983, received by Radix on August 23, 1983, the contracting officer advised Radix that no changes to the RFP would be made. Radix's subsequent protest to our Office was filed on September 13, 1983, the closing date for receipt of initial offers.

Radix's August 5 letter to the contracting officer is construed as a protest because Radix specifically pointed out deficiencies in the solicitation and requested corrective action. See Monarch Enterprises, Inc., B-208631, May 23, 1983, 83-1 CPD 548. Our Bid Protest Procedures, 4 C.F.R. part 21 (1983), require that where a protest against alleged solicitation improprieties has been filed initially with the contracting agency, any subsequent protest to our Office must be filed within 10 working days of formal notification of initial adverse action by the agency on the protest. 4 C.F.R. § 21.2(b)(1); see Compucorp, B-211889, June 10, 1983, 83-1 CPD 644.

Since Radix's protest to our Office on the closing date was more than 10 days after Radix received the denial of its protest by the agency, it is untimely.

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We dismiss the protest.

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