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**DECISION**



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

**FILE:** B-214737

**DATE:** April 6, 1984

**MATTER OF:** American Construction & Energy, Inc.

**DIGEST:**

A protest that the type of solar film specified by the solicitation is not available and that the procuring officials refused to provide any sources of the specified film in a possible attempt to restrict competition to one firm that may have knowledge of an acceptable alternative product is untimely since the protest involves alleged improprieties apparent prior to bid opening, but was not filed before that date as required by GAO Bid Protest Procedures.

American Construction & Energy, Inc. (American), protests any award of a contract under invitation for bids (IFB) No. D/L 84-4 issued by the Department of Labor for installation of energy control/solar film.

American contends that the type of solar film specified in the solicitation is not available. American also argues that procuring officials refused to provide any sources of the specified film in a possible attempt to restrict competition to one firm which may have knowledge of an acceptable alternative product.

American's protest was filed in our Office on March 21, 1984. We have been informally advised that bid opening took place on March 16, 1984.

The protest that the type of solar film specified in the solicitation is not available and that the procuring activity may be trying thereby to restrict competition to one firm is untimely. Our Bid Protest Procedures, 4 C.F.R. § 21.2(b)(1)/(1983), require that protests based upon solicitation improprieties apparent prior to bid opening must be filed in, that is, received by, the agency or the General Accounting Office before bid opening. Apparently no protest was filed with the agency and American filed its protest regarding the availability of the specified solar film with our Office only after bid opening. We therefore

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will not consider the merits of the issue. See Gas Turbine Corporation, B-210411, May 25, 1983, 83-1 CPD 566.

We dismiss the protest.

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