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Floyd Phillips  
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**DECISION**



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

**FILE:** B-191222 **DATE:** February 21, 1978  
**MATTER OF:** Automated Analytical Laboratory Services,  
Medical Products Division, 3M Company

**DIGEST:**

Protest against modification of solicitation, converting it to 100-percent small business set-aside, is untimely filed under Bid Protest Procedures (4 C.F.R. § 20.2(b)(1) (1977)), since it was not filed prior to closing date set for receipt of proposals.

By letter of January 26, 1978, postmarked January 30, 1978, Automated Analytical Laboratory Services, Medical Products Division, 3M Company (AAL), protested the "late" modification of Department of Health, Education, and Welfare (HEW) request for proposals (RFP) PL-78-11-MS, converting the procurement to a 100-percent small business set-aside.

According to AAL, the date specified for receipt of offers was January 27, 1978, and the modification was received on January 23, 1978. This being the case, we must view AAL's protest as one involving an apparent defect in the solicitation.

GAO's Bid Protest Procedures provide at 4 C.F.R. § 20.2(b)(1) (1977) that protests involving apparent solicitation defects shall be filed prior to the closing date set for receipt of proposals. Since AAL's protest was not received by this Office until February 3, 1978 (at which time it is considered to have been filed), it is clear that the protest is untimely.

Therefore, AAL's protest will not be considered on the merits.

*Milton J. Dembling*  
for Paul G. Dembling  
General Counsel