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DECISION



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

FILE: B-203986

DATE: July 23, 1981

MATTER OF: Shell Computer Systems, Inc.

DIGEST:

[Protest of unduly restrictive specifications] is untimely where initial protest to contracting agency was filed after bid opening.

Shell Computer Systems, Inc. (Shell) protests the denial of its protest by the National Aeronautics and Space Administration (NASA) under invitation for bids (IFB) No. 3-354765. Shell asserts that the IFB unduly restricted competition. We dismiss the protest as untimely.

The IFB was issued to procure memory and interface circuit boards to upgrade existing Digital Equipment Corporation (DEC) PDP-11 minicomputers at NASA's Lewis Research Center. The IFB limited bids to certain specified DEC and Plessey Peripheral Systems circuit boards.

Our Bid Protest Procedures, 4 C.F.R. 21.2(b)(1) (1981), require that any protest based upon alleged improprieties in a solicitation which are apparent prior to bid opening must be filed prior to bid opening. The term filed means receipt in the contracting agency for protests filed with the agency, or receipt in GAO for protests filed with this Office. 4 C.F.R. 21.2(b)(3). Where a protest is filed initially with the contracting agency and is denied, a subsequent protest to this Office will be considered only if the initial protest to the agency was timely. Gulf Coast Elevator Company, Inc., B-201611, January 19, 1981, 81-1 CPD 33.

Bid opening in this case occurred on April 30, 1981. Shell initially filed a protest with NASA by a letter dated May 4, 1981, which NASA received on May 8, 1981.

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Since the restriction was apparent prior to bid opening, Shell's initial protest to NASA was untimely filed. Therefore, we will not consider its subsequent protest to this Office.

The protest is dismissed.

Harry R. Van Cleve

Harry R. Van Cleve
Acting General Counsel