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DECISION



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

FILE: B-209940.3

DATE: February 1, 1983

MATTER OF: CPF Underground Utilities, Inc. and
Schweigert, Inc./Joint Venture

DIGEST:

Protest allegation that an IFB specification is unduly restrictive of competition is untimely and not for consideration on the merits where the alleged restrictiveness was apparent on the face of the IFB, but the protest was not filed until after bid opening.

CPF Underground Utilities, Inc. and Schweigert, Inc./ Joint Venture (CPF) protests any award under invitation for bids (IFB) No. N62477-81-B-0408, issued by the Department of the Navy for rehabilitation of a steam distribution system at Andrews Air Force Base, Maryland. CPF essentially contends that the solicitation is unduly restrictive because it requires installation of a qualified heat distribution system made with fiberglass insulation, and no supplier's qualified system meets this requirement. It concludes that the IFB is fatally defective. We dismiss the protest as untimely filed.

Under our Bid Protest Procedures, protests based on alleged defects apparent on the face of an IFB must be filed prior to bid opening. See 4 C.F.R. § 21.2(b)(1). Allegations that specifications are overly restrictive of competition generally concern alleged defects which appear on the face of the solicitation. Thus, if CPF believed the specification calling for fiberglass insulation could not be met by any qualified supplier, it was required to protest on this ground prior to bid opening. It did not do so. We have been advised by the Navy that bids here were opened December 22, 1982. CPF did not file this protest in our Office until January 4, 1983. Therefore, the protest is untimely and will not be considered on the merits. See Carrier Air Conditioning, B-208069, July 17, 1982, 82-2 CPD 46.

The protest is dismissed.

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

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