

DECISION

J. Hebermann

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

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FILE: B-211889

DATE: June 10, 1983

MATTER OF: Compucorp

DIGEST:

Protest filed with GAO before closing date for receipt of proposals but more than 10 working days after protester learns of initial adverse agency action in response to protester's pre-closing date protest to agency is dismissed as untimely.

Compucorp protests that request for proposals No. F26600-83-R-0101 issued by Nellis Air Force Base, Nevada (Air Force), for the lease/purchase of word processing equipment unreasonably restricts competition by limiting consideration to CPT brand equipment.

Compucorp protested this restriction to the Air Force contracting officer by letter dated March 10, 1983, from Compucorp's area dealer distributor. By letter of April 8, 1983, the contracting officer denied the protest. Compucorp's protest was subsequently filed (received) in our Office on May 24, 1983, objecting to the Air Force denial on the grounds that it contains an erroneous justification for the restriction.

We dismiss the protest.

While the protest was filed in our Office prior to the closing date for receipt of proposals, it was filed more than a month after the contracting officer denied the protest filed with him. Under section 21.2(a) of our Bid Protest Procedures, 4 C.F.R. part 21 (1983), when a protest 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 or actual or constructive notice of initial adverse agency action. While section 21.2(b)(1) provides that a protest based on alleged improprieties in a solicitation which are apparent prior to the closing date for receipt of initial proposals must be

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filed prior to the closing date for receipt of proposals, we have held that where a protest of a solicitation defect has been filed with the procuring agency, section 21.1(a) controls. Polaroid Corporation, B-209753, December 1, 1982, 82-2 CPD 497; Informatics, Inc., 58 Comp. Gen. 750 (1979), 79-2 CPD 159. Accordingly, Compucorp's protest is untimely and not for consideration on the merits.

for *J. H. Barclay Jr.*
Harry R. Van Cleve
Acting General Counsel