

**DECISION**

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

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**FILE:** B-212331

**DATE:** August 29, 1983

**MATTER OF:** Simon Aerials, Inc.

**DIGEST:**

Protest of allegedly unduly restrictive specifications in solicitation is dismissed as untimely since it was not filed before bid opening.

Simon Aerials, Inc. (Simon), protests the allegedly restrictive specifications contained in solicitation No. NOO612-83-R-0196, issued by the Naval Supply Center, Charleston, South Carolina. We dismiss the protest.

The Navy advised us that bids were opened at 2 p.m. on July 8, 1983. Simon filed its protest with our Office on July 11, 1983, contending that the specifications contained in the solicitation were unduly restrictive.

Our Bid Protest Procedures provide that protests of alleged improprieties in a solicitation which are apparent prior to bid opening must be filed with the contracting agency or with our Office prior to that date. 4 C.F.R. § 21.2(b)(1) (1983). Thus, protests against restrictive specifications are untimely unless filed prior to bid opening. Med-E-Jet Corp., B-210446, February 1, 1983, 83-1 CPD 118. Since Simon's protest was not received in our Office until July 11, and no protest was made to the contracting agency prior to bid opening, it is untimely and not for consideration on the merits.

Although we initially requested the agency to provide us with a report on this protest, in view of the advice from the agency as to the date of bid opening, a report is unnecessary. Our Bid Protest Procedures state that when, on its face, a protest is clearly without legal merit, the protest shall be dismissed without a report from the agency. 4 C.F.R. § 21.3(g) (1983).

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

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