

**DECISION**

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

FILE: B-213224

DATE: October 25, 1983

MATTER OF: American Bell Advanced Information  
Systems**DIGEST:**

1. Protest that specifications in invitation for bids are deficient is untimely since it was not made prior to bid opening.
2. GAO will not review a contracting agency's affirmative determination of responsibility absent a showing that the determination was made fraudulently or in bad faith or that definitive responsibility criteria were not met.

American Bell Advanced Information Systems (American Bell) protests that certain specifications in invitation for bids (IFB) No. EMW-83-B-1276 issued by the Federal Emergency Management Agency are ambiguous and that no vendor can meet the delivery schedule in the IFB.

We dismiss the protest.

Our Bid Protest Procedures, 4 C.F.R. § 21.2(b)(1) (1983), provide that protests based on alleged improprieties which are apparent prior to bid opening must be filed prior to bid opening. To the extent that American Bell is protesting that the specifications are deficient, the protest is untimely, since the bid opening was on September 28, 1983, and American Bell did not send a letter of protest until September 29, 1983.

To the extent that American Bell is protesting that none of the companies that submitted bids can meet the delivery schedule in the IFB, it is questioning the responsibility of the bidders. We will not review a contracting agency's affirmative determination of responsibility absent a showing that the determination was made fraudulently or in bad faith or that definitive responsibility criteria were not met. 4 C.F.R. § 21.3(g)(4), as added by 48 Fed. Reg. 1932 (1983). Neither exception applies here.

*Harry R. Van Cleve*

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