

DECISION



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

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FILE: B-213036.2

DATE: December 7, 1983

MATTER OF: M/A-Com Alanthus Data, Inc.

DIGEST:

Protest alleging defects which are apparent on the face of a solicitation, filed with a bid or included in a proposal, will not be considered a timely protest to the contracting agency, and any subsequent protest to GAO will be dismissed.

M/A-Com Alanthus Data, Inc. (M/A-Com), protests what it alleges is an unduly restrictive specification in request for proposals (RFP) No. DE-RP01-83MA32424 issued by the Department of Energy.

Specifically, M/A-Com argues that a requirement in the RFP for a built-in dial pad in the solicited communications equipment is unnecessary in that its communications equipment operates effectively without the device.

We dismiss the protest as untimely.

In its proposal submitted on the September 9, 1983, closing date, M/A-Com took exception to the above specification. Subsequently, on November 4, 1983, M/A-Com filed its protest concerning this matter with our Office.

Our Bid Protest Procedures, 4 C.F.R. § 21.2 (1983), require that protests alleging defects which are apparent on the face of the solicitation be filed before bid opening or the initial closing date for receipt of proposals. It is well settled that such a protest filed with a bid or included in a proposal will not be considered timely. Precision Dynamics Corporation, B-207823, July 9, 1982, 82-2 CPD 35; Amdahl Corporation, B-191215, March 28, 1978, 78-1 CPD 237.

Thus, the protest M/A-Com submitted as part of its proposal cannot be considered a timely protest to the

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contracting agency and its subsequent protest to our Office also is untimely. Precision Dynamics Corp., supra.

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Acting General Counsel