

J. Ashen



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: ImageMatrix, Inc.

File: B-243170

Date: March 11, 1991

Karen Kinder for the protester.
Catherine M. Evans and David Ashen, Esq., Office of the
General Counsel, GAO, participated in the preparation of the
decision.

DIGEST

Protest of solicitation amendment received 1 day before
proposals were due is untimely where not filed within 10 days
of date protester received the amendment.

DECISION

ImageMatrix, Inc. protests an amendment to request for
proposals (RFP) No. NEH-91-TVE-3, issued by the National
Endowment for the Humanities (NEH) for production of a video
to promote NEH programs.

We dismiss the protest as untimely filed.

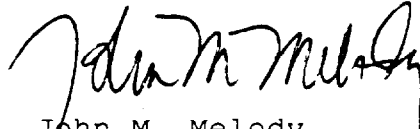
Proposals in response to the RFP were due on February 15,
1991. ImageMatrix completed preparation of its proposal on
February 14. On that date, ImageMatrix received a copy of an
amendment to the RFP dated February 8 stating that all
offerors must be listed on the Qualified Videotape Producers
List (QVPL). As ImageMatrix is not listed on the QVPL, the
amendment effectively excluded the firm from the competition.
ImageMatrix asserts that the amendment was improper because it
was not received until the day before proposals were due,
after ImageMatrix had expended time and resources preparing
its proposal.

ImageMatrix's protest of the QVPL requirement concerns an
alleged impropriety incorporated into the RFP that is apparent
on the face of the amendment. Generally, to be timely under
our Bid Protest Regulations, such a protest must be filed
prior to the next closing date for receipt of proposals
following the incorporation. 4 C.F.R. § 21.2(a)(1) (1990).
In this case, however, since ImageMatrix did not receive the
amendment until 1 day before proposals were due, section
21.2(a)(1) is inapplicable because ImageMatrix did not have a

050826/14381

reasonable opportunity to file its protest before the due date. The Big Picture Co., B-210535, Feb. 17, 1983, 83-1 CPD ¶ 166. Instead, ImageMatrix was required to file its protest no later than 10 working days from the time it learned of its basis for protest. Id.; 4 C.F.R. § 21.2(a)(2). We received ImageMatrix's protest on March 4, 12 working days after it learned of the amendment excluding it from the competition. The protest therefore is untimely and will not be considered.

The protest is dismissed.



John M. Melody
Assistant General Counsel