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DECISION



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

FILE: B-207424

DATE: May 24, 1982

MATTER OF: International Systems, Inc.

DIGEST:

Protest that firm was denied opportunity to compete, filed with GAO more than 10 working days after protester received notification of award to another firm is untimely and not for consideration on the merits.

International Systems, Inc. (International) protests the award of a contract for software programs by the Department of Commerce to Decision and Design, Inc. We dismiss the protest as untimely.

On February 1, 1982, International responded to a Commerce Business Daily synopsis by submitting capability information about its software program to the agency. On March 1, the protester telephoned the contracting officer and was told that a solicitation was being prepared and that International would be mailed a copy. On April 12, the contracting officer, returning an April 7 telephone call of the protester, advised International that an award had been made to Decision and Design, Inc. International requested a debriefing, which has still not been held.

The protester's complaint is that it never received a copy of the solicitation and was improperly excluded from competing. Section 21.2(b)(2) of our Bid Protest Procedures, 4 C.F.R. § 21.2(b)(2) (1981), requires that a protest be received in our Office not later than 10 working days after the basis for protest is known or should have been known, whichever is earlier. See Faber Enterprises, Inc., B-204612, September 22, 1981, 81-2 CFD 241. On April 12, International was informed that

award had been made to another firm. At this time, despite the request for a debriefing, we believe International became aware of the basis for its protest and was consequently required to file its protest within 10 days thereafter. However, International's protest was not received in our Office until May 7, 1982, and therefore is untimely.

The protest is dismissed.

Harry R. Van Cleave
Harry R. Van Cleave
Acting General Counsel