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**DECISION**



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

FILE: B-198090

DATE: April 4, 1980

MATTER OF: SmithKline Clinical Laboratories

4297

**DIGEST:**

[Protest alleging solicitation defect] apparent prior to closing date for receipt of proposals, but filed thereafter, is untimely and not for consideration on merits.

SmithKline Clinical Laboratories (SmithKline) protests request for proposals (RFP) DADA03-80-R-0003 issued by the Department of the Army, Fitzsimons Army Medical Center, for laboratory testing services.

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SmithKline alleges that the RFP was defective because it provides for a single award and the Government could obtain a more favorable contract by using a multiple award procedure.

The RFP was issued on November 13, 1979. The closing date for receipt of initial proposals was December 31. SmithKline protested to the contracting agency on February 28, 1980 after learning that award had been made to another firm on February 1. SmithKline filed its protest here on March 13.

The protest is untimely. Our Bid Protest Procedures, 4 C.F.R. § 20.2 (b)(1) (1979), provide that protests based upon alleged improprieties in a solicitation, which are apparent prior to closing date for receipt of proposals, must be filed "prior to \* \* \* the closing date for receipt of initial proposals." SmithKline's challenge to the solicitation is, of course, an allegation of a defect in the RFP. Since the alleged defect was apparent prior to the closing date, but the protest was not filed until some two months later, the protest is untimely and not for consideration on the merits. Ace Van & Storage Company, B-193768, February 8, 1979, 79-1 CPD 85.

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The protest is dismissed.

*Harry R. Van Clave*  
for Milton J. Socolar  
General Counsel