

19246

Boyle

**DECISION**



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

FILE: B-204379

DATE: August 24, 1981

MATTER OF: General Automatic Corporation

**DIGEST:**

GAO will not consider merits of protest against propriety of solicitation amendment reducing time for delivery because protest was not filed before next closing date for receipt of proposals as required by 4 C.F.R. § 21.2(b)(1) (1981).

General Automatic Corporation (GAC) protests the Army's determination not to make award to GAC in accord with GAC's initial proposal submitted in response to request for proposals (RFP) No. DAAE07-80-R-5345 for certain kits. GAC contends that the circumstances created an unfair situation. We conclude that GAC's protest is untimely.

GAC states that the Army determined that its initial proposal was the otherwise successful proposal but the Army could not make award because GAC was determined to be nonresponsible. The matter was referred to the Small Business Administration (SBA) and SBA issued a certificate of competency. Thereafter, the Army amended the RFP to provide for a required delivery schedule in lieu of a desired delivery schedule. Subsequently, the matter was again referred to SBA but, based on a survey performed on April 1, 1981, SBA declined to issue a certificate of competency because SBA was not convinced that GAC could meet the required delivery schedule.

In GAC's August 10, 1981, protest, it contends that since no award has been made to date, there was no need for the Army to amend the RFP delivery schedule because if award was made to GAC under its

1161531

018207

proposed delivery schedule more than 90 days earlier, the Army would have received the supplies when they were scheduled to be delivered under the amended RFP at a lower price.

The thrust of GAC's protest is that, in its view, the Army's amending the RFP delivery schedule was unnecessary because hindsight has shown that 90 days has expired before award could be made.

In our view, GAC is challenging the propriety of the amendment to the RFP delivery schedule. Under our Bid Protest Procedures, to be considered timely, such protests must be filed prior to the next closing date for receipt of proposals. 4 C.F.R. § 21.2(b)(1) (1981); Klein-Sieb Advertising & Public Relations, Inc., B-194553.2, March 23, 1981, 81-1 CPD 214. Since GAC's protest was not timely filed, it will not be considered on the merits.

Protest dismissed.

*J. H. Baucus*  
for Harry R. Van Cleve  
Acting General Counsel