

DECISION

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

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FILE: B-212794

DATE: October 11, 1983

MATTER OF: Metavac, Inc.

DIGEST:

Protest that solicitation failed to require first article approval under the resulting contract is untimely since it was not filed prior to bid opening.

Metavac, Inc. protests the award of a contract for infrared filters under solicitation No. DAAB07-83-B-E-186 issued by the U.S. Army Communications-Electronics Command.

Metavac complains that the low bidder was not required to submit filters for first article approval under this solicitation. According to Metavac, all prior producers of this item have been required to obtain first article approval because such approval is needed to insure maximum "battlefield safety" for the user.

Under our Bid Protest Procedures, 4 C.F.R. § 21.2 (1983), protests based upon alleged improprieties which are apparent prior to bid opening must be filed either with the contracting agency or our Office prior to bid opening in order to be considered timely filed. Here, Metavac was or should have been aware prior to bid opening on August 18, 1983 that the solicitation did not require first article approval under the resulting contract. Yet its protest was not filed with this Office until August 22, 1983. Therefore, Metavac's protest is untimely and will not be considered on the merits. Chemray Coatings Corporation, B-210625, May 6, 1983, 83-1 CPD 474.

The protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel

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