

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

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FILE: B-213273

DATE: December 28, 1983

MATTER OF: Dynamics Research Corporation

DIGEST:

Protest filed after bid opening with respect to evaluation criteria set forth in the second step of a two-step formally advertised procurement is untimely under GAO's Bid Protest Procedures, which require such protests to be filed prior to bid opening.

Dynamics Research Corporation protests the award to Hughes Aircraft Company of a contract under Naval Air Systems Command solicitation No. N00019-83-B-0001, a two-step formally advertised procurement for tracking/reporting and management services in connection with air launched weapon systems. Dynamics protests alleged improprieties in the evaluation factors set out in amendment No. 0002 to the second step of the procurement.

We dismiss the protest as untimely.

The Navy informally advises that the first step of the solicitation was issued on November 22, 1982, with the amended closing date for receipt of technical proposals being February 9, 1983. On the basis of the best and final technical offers submitted, Dynamics, among others, was invited to participate in the second step and submit a bid. Invitations for bids for the second step were issued on August 29, with bids due on September 13. The Navy hand-delivered amendment No. 0002 to the bidders on September 6. The contract was awarded to Hughes Aircraft, the low bidder, on September 26.

Our Bid Protest Procedures, 4 C.F.R. § 21.2(b)(1) (1983), require that protests based upon alleged improprieties that are apparent on the face of an invitation, including an invitation issued as part of a two-step procurement, be filed prior to the bid opening date. The Willard Company, B-202921, October 9, 1981, 81-2 CPD 292.

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Dynamics' protest, filed with our Office on October 4, concerns alleged improprieties in the evaluation factors contained in the amendment to the second-step invitation for bids and, as such, should have been filed before bid opening on September 13. The purpose of our timeliness limitations is to enable the contracting agency, or our Office, to decide an issue while it is still practicable to take effective action where the circumstances warrant. See Page Airways, Incorporated and Omni Coast International, Inc., B-197896, B-197896.2, June 5, 1980, 80-1 CPD 391. For example, in this case, a protest before the date for receipt of the bids would have permitted review and, if the protest had merit, the possible amendment to the solicitation prior to the exposure of prices.

Since Dynamics did not file this protest before bid opening under the procurement's second step, the protest is dismissed as untimely.

Harry R. Van Cleve
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Acting General Counsel