



**The Comptroller General  
of the United States**

Washington, D.C. 20548

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# Decision

**Matter of:** Radiation Systems, Inc.

**File:** B-222585.5

**Date:** August 6, 1986

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## DIGEST

Protest against evaluation criteria and use of negotiation rather than two-step sealed bid procedure, filed after closing date announced in amendment, which changed contract type from cost plus to fixed price and gave rise to protest bases, is untimely.

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## DECISION

Radiation Systems, Inc. (RSI), protests the conduct of solicitation No. N41756-85-R-8511, issued by the Navy Engineering Logistics Office for an antenna tracking system. RSI contends that because of the issuance of amendment 00006, dated June 26, 1986, (1) this negotiated procurement should be conducted under two-step sealed bidding procedures and (2) that the evaluation criteria should be changed to place more emphasis on cost rather than technical and management considerations.

A contract under this solicitation had been awarded to Electronic Space Systems Corporation, but was terminated for the convenience of the government following a protest to our Office by TIW Systems, Inc., that meaningful discussions had not been conducted. Amendment 00006 followed and reinstated the solicitation and advised offerors that after discussions were conducted, new best and final offers would be requested.

We find RSI's protest untimely filed and dismiss it.

RSI previously protested the evaluation criteria following the issuance of amendment 00005, issued on March 24, 1986, which changed the type of contract from cost-plus-fixed-fee to firm-fixed-price. Best and final offers were requested by April 15, 1986. In Radiation Systems, Inc., B-222585.2, June 6, 1986, we dismissed RSI's protest, filed May 21, 1986, as untimely since it was not filed prior to the closing date. 4 C.F.R. § 21.2(a)(1) (1985).

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While RSI contends that this protest is based on the issuance of amendment 0006, we disagree. That amendment merely reopened the competition. Both of RSI's grounds of protest, the evaluation criteria and the use of the two-step procurement method, are premised on the change in amendment 0005 from cost plus to a fixed-price contract. Therefore, these issues should have been raised prior to the April 15 closing date announced in that amendment. Section 21.2(a)(1) of our Bid Protest Regulations requires that protests against alleged improprieties which do not exist in the initial solicitation, but which are incorporated into the solicitation, must be filed not later than the next closing date for receipt of proposals following the incorporation.

The protest is dismissed.



Robert M. Strong  
Deputy Associate General Counsel