

Heaf Elker



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Dresser Argus Inc.

File: B-228557

Date: November 5, 1987

DIGEST

1. Protest against an alleged deficiency in a solicitation is untimely when not filed until after the closing date for receipt of initial proposals.
2. Protest that the sole manufacturer of one of the items being procured has quoted that item to the protester at an uncompetitive price and thus the agency should itself procure the item is untimely when the protest is filed more than 10 days after the protester received the manufacturer's quotation.

DECISION

Dresser Argus Inc. protests an alleged deficiency in the specifications for fire direction sets in request for proposals (RFP) No. DAAA09-87-R-1356 issued by the Army. Dresser states that the specifications require each set to contain a protractor that is manufactured by only one company. According to the protester, the government recently paid the manufacturer a unit price of \$225 for these protractors. However, that same manufacturer, by quoting Dresser a unit price of \$310, has in the protester's view gained a competitive advantage over it and other offerors. Dresser argues that the specifications should be changed to delete the requirement for protractors and require that the government meet this part of its needs by procuring the protractors and supplying them a government furnished material.

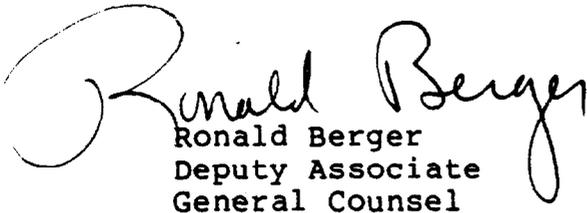
We dismiss the protest.

The RFP, issued on September 2, 1987, required that initial proposals be submitted by October 2. Dresser's protest was not received by our Office until October 19. Our Bid Protest Regulations provide that protests based upon allege

improprieties in a solicitation which are apparent prior to the closing date for the receipt of initial proposals, to be timely, must be filed prior to closing. 4 C.F.R. § 21.2(a)(1) (1987). Since the solicitation required the contractor to supply the protractors, the alleged impropriety was apparent on the face of the solicitation. The protest that the government should supply the protractors filed on October 19 is thus untimely and will not be considered.

To the extent that Dresser's argument that the agency should itself supply the protractors is based on the manufacturer's quotation--which the record shows was received by the protester on September 21--the protest is also untimely. Our regulations require that protests other than those concerning solicitation improprieties be filed within 10 days after the basis of protest is known. Here, the protest was not filed until October 19, well after the 10-day deadline.

The protest is dismissed.


Ronald Berger
Deputy Associate
General Counsel