



The Comptroller General  
of the United States

Washington, D.C. 20548

# Decision

Matter of: CNC Company  
File: B-232031  
Date: August 12, 1988

## DIGEST

Protest that specifications are written around a particular vendor's equipment is dismissed as untimely where it is filed after the closing date for receipt of proposals established by the amendment that incorporated the allegedly restrictive specifications.

## DECISION

CNC Company protests a contract award under Defense Logistics Agency (DLA) request for proposals (RFP) No. DLA400-87-R-2844, to any offeror other than CNC. We dismiss the protest.

The RFP was issued on January 6, 1987, for a Circular Systematic Dishwashing System with specified features. DLA subsequently issued five amendments to the solicitation. Amendment 5, issued on March 1, 1988, changed the requirement to a Fast Rack Warewashing System Dishwasher; included an 8-page specification concerning the dishwasher; deleted a requirement that the successful offeror install the machine, and established March 31 as the closing date for the receipt of proposals.

CNC orally contacted DLA to complain that the specification was written around a Hobart Corporation dishwasher, but never filed a formal protest with DLA despite its stated intention to do so. CNC submitted an offer which, although low at \$55,800, was judged technically unacceptable and was rejected by letter dated June 29. The contract was awarded to Gill Marketing Co., for Hobart equipment, on that same date.

CNC protested to our Office on July 20. CNC asserts that the specifications as changed by amendment 5 unduly restricted competition because they were written around the

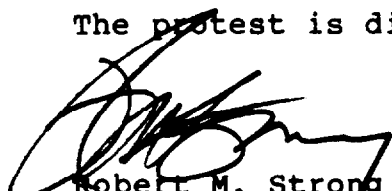
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Hobart machine. CNC also asserts that the solicitation required the successful awardee to maintain a service location with a \$100,000 inventory of dishwashers parts within 12 miles of the hospital where the dishwasher will be installed, and that the awardee does not meet this requirement because the awardee's \$100,000 inventory is not comprised solely of dishwasher parts. CNC suggests that whatever the awardee's inventory is, it includes parts for refrigerators, saws, mixers, etc., and not just dishwashers.

We will not consider CNC's protest of the specifications. Under our Bid Protest Regulations, a protest against alleged solicitation improprieties that are incorporated into a solicitation after it is initially issued must be protested no later than the next closing date for the receipt of proposals. 4 C.F.R. § 21.2(a)(1) (1988). Here, since amendment 5, which incorporated the protested specifications, established March 31 as the closing date for the receipt of proposals, CNC's July 20 protest to our Office is clearly untimely.

We also dismiss CNC's other contention, since CNC's speculation that the Hobart service agency does not have a \$100,000 inventory of dishwasher parts does not provide our Office with a basis on which to question the awardee's compliance with this provision. In any event, we have reviewed the solicitation, and it does not require the inventory to be comprised solely of dishwasher parts.

The protest is dismissed.



Robert M. Strong  
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General Counsel