



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Abbott Products Incorporated
File: B-231736.2
Date: October 6, 1988

DIGEST

Protest against requirement to submit best and final offers with and without pricing for first article testing on FOB origin and FOB destination, filed after the next closing date for receipt of proposals is untimely and there is no basis for waiving our timeliness requirements.

DECISION

Abbott Products Incorporated protests the First Article requirement under request for proposals (RFP) No. DAAA09-87-R-0931, a total small business set-aside, issued by the United States Army Armament, Munitions Chemical Command (AMCCOM), for 209,280 BDU/33 practice bombs. Abbott contends that AMCCOM afforded the David B. Lilly Company an improper advantage by instructing offerors to submit best and final offers (BAFO) with and without pricing for first article testing on FOB origin and FOB destination bases.

We dismiss the protest.

We find that Abbott's protest is untimely. Abbott filed its protest by letter dated August 26, 1988, which we received on September 1, 1988. In procurements where proposals are requested, alleged improprieties which do not exist in the initial solicitation but which are subsequently incorporated into the solicitation must be filed (meaning received in our Office) not later than the next closing date for the receipt of proposals following the incorporation. See 4 C.F.R. § 21.2(a)(1) (1988). AMCCOM advises that BAFOs were due on August 29, 1988. Since Abbott did not file its protest against the first article pricing requirement contained in AMCCOM's request for BAFOs until after the next closing date, we find that it is untimely.

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Although not disputing the untimeliness of the protest, Abbott requests that we consider the protest under the good cause exception to our timeliness requirements found at 4 C.F.R. § 21.2(b), and because the protest raises serious questions and significant issues about AMCCOM's procuring of this item.

In order to invoke the good cause exception to our timeliness requirements, Abbott has to show that there was a compelling reason beyond its control that prevented it from filing the protest, which it has failed to do. See Diogenes Corporation--Reconsideration, B-229828.2, Feb. 8, 1988, 88-1 CPD ¶ 125. Moreover, a significant issue is one where the protest raises an issue of first impression that would have widespread significance to the procurement community. Microeconomic Applications, Inc.--Reconsideration, B-229749.3, Apr. 26, 1988, 88-1 CPD ¶ 404. We do not find that the issue raised by Abbott meets this standard.

The protest is dismissed.



Robert M. Strong
Associate General Counsel