



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Lambrecht & Sons Inc.

File: B-241092

Date: September 24, 1990

Kenneth Lambrecht for the protester.
Catherine M. Evans, Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

Protest of agency's decision to request best and final offers (BAFO) from all offerors is dismissed as untimely filed where not filed at General Accounting Office prior to the closing date for receipt of BAFOs.

DECISION

Lambrecht & Sons Inc. protests the Department of the Army's decision to request best and final offers (BAFO) under request for proposals (RFP) No. DABT19-90-R-0017, for painting services.

We dismiss the protest as untimely filed.

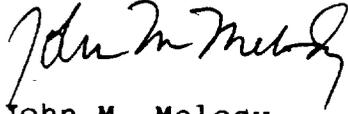
Under our Bid Protest Regulations, improprieties incorporated into a solicitation must be protested prior to the next closing date for receipt of proposals following the incorporation. 4 C.F.R. § 21.2(a)(1) (1990). Thus, Lambrecht's protest against the agency's request for BAFOs should have been filed prior to the closing date for BAFOs. Pan Am World Servs., Inc., et al., B-231840 et al., Nov. 7, 1988, 88-2 CPD ¶ 446. Similarly, to the extent that Lambrecht appears to object to the Army's conduct of the procurement using negotiated procedures instead of sealed bidding, the protest should have been filed prior to the submission of initial proposals. 4 C.F.R. § 21.2(a)(1); Fiber-Lam, Inc., B-237716.2, Apr. 3, 1990, 90-1 CPD ¶ 351.

Moreover, there is simply nothing improper in an agency's requesting a BAFO in a negotiated procurement. Sechan Elecs., Inc., B-233943, Mar. 31, 1989, 89-1 CPD ¶ 337. While Lambrecht attempts to support its argument to the contrary with an assertion that the Army may have disclosed its pricing information to another offeror, this allegation

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amounts to mere speculation, and we will not attribute unfair motives to government procurement officials on the basis of inference or supposition. Id.

The protest is dismissed.

A handwritten signature in cursive script, appearing to read "John M. Melody".

John M. Melody
Assistant General Counsel