

C. Melody

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

**FILE:** B-222464.2

**DATE:** May 6, 1986

**MATTER OF:** RCA--Request for Reconsideration

**DIGEST:**

Protest challenging as defective the technical data package in a request for proposals (RFP) involves alleged improprieties apparent on the face of the RFP and therefore is untimely when not filed before the closing date for receipt of initial proposals. Protester's delay in completing its technical analysis of the RFP does not justify filing the protest after the initial closing date, since the protester does not contend that the alleged technical defects in the RFP were latent and offers no reason beyond its control for failure to identify the grounds of protest before initial proposals were due.

RCA requests reconsideration of our dismissal of its protest (B-222464, filed April 7, 1986) challenging any award under request for proposals (RFP) No. DAAA09-85-R-1702, issued by the Army for electronic assemblies to be used as target detectors for Gator antitank mines. The protest, filed after the closing date for receipt of initial proposals, alleged that the technical data package (TDP) included in the RFP was defective in various respects. We affirm the prior dismissal.

The RFP was issued on January 26, 1986, with initial proposals due on February 28. On February 20, the contracting officer extended the proposal due date to March 7 because certain data had been omitted from the RFP. By letter dated March 3, RCA requested an extension of the due date to April 2 to allow RCA to complete an engineering evaluation of the TDP. RCA stated that it had encountered difficulties in manufacturing the electronic assemblies under two prior contracts for the items, using substantially the same TDP as under the current RFP. RCA

035353

believed that the manufacturing problems probably were due to deficiencies in the TDP, and RCA's engineering staff began analyzing the TDP in January 1986 in an attempt to pinpoint the problems. Because it did not expect to complete the engineering analysis until March 21, RCA requested that the proposal due date be extended. By letters dated March 4 and 5, the contracting officer denied RCA's request for an extension.

RCA then filed a protest with the Army by letter dated March 17, detailing the alleged deficiencies in the TDP and requesting that the RFP be revised. The Army denied the protest on March 27. On April 7, RCA filed its protest with our Office. The same day, we dismissed the protest as untimely since it concerned alleged improprieties in the RFP and had not been filed before the due date for initial proposals, as required under our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (1985).

In its request for reconsideration, RCA argues that it could not have filed its protest before the proposal due date because RCA was unaware of the alleged technical deficiencies in the RFP on which the protest was based until its engineering evaluation of the TDP was completed on March 13, after the March 7 due date for proposals. RCA maintains that the technical evaluation of the TDP could only be done by its engineering staff and that the evaluation was done on an expedited basis and completed as soon as possible. RCA argues that its protest was timely because it was filed within 10 days after RCA's engineers completed the evaluation of the TDP.

RCA does not contend that it was not aware that there were technical problems in the RFP prior to the date for initial proposals; RCA argues only that, due to their technically complex nature, its detailed protest grounds could not be identified until RCA's engineers completed their investigation of the TDP. The fact that RCA's internal investigation was not completed does not, however, relieve RCA of the requirement to file its protest before the due date for initial proposals. RCA offers no justification other than the technical complexity of its allegations for its failure to identify the grounds of its protest before the proposal due date. Nor does RCA explain why before proposals were due it did not protest the agency's refusal to extend the proposal due date to accommodate its investigation. This case thus is

distinguishable from those cases where the protester was unaware of the grounds of protest due to factors beyond its control. See Technical Services Corp., B-216408.2, June 5, 1985, 85-1 CPD ¶ 640 (debriefing); Carrier Corp., B-214331, Aug. 20, 1984, 84-2 CPD ¶ 197 (Freedom of Information Act request).

If we accepted RCA's contention that the time for filing the protest should be measured from the date RCA's own analysis of the RFP was completed, there effectively would be no time limit in this or similar cases on filing protests challenging alleged defects in an RFP. This would defeat the purpose of the requirement that protests such as RCA's be filed before the proposal due date--to allow the contracting agency or our Office to decide a protest issue while it is most practicable to take effective action if warranted. For example, a protest like RCA's challenging allegedly defective specifications, if filed before the due date, would allow the RFP to be amended without undue disruption to the procurement if the protest is found to have merit. See Ratcliffe Corp.--Request for Reconsideration, B-220060.2, Oct. 8, 1985, 85-2 CPD ¶ 395.

Since RCA has not shown that our decision to dismiss its protest as untimely was improper, we affirm our original decision.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
General Counsel