

Rel. 2 - PL



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Teledyne CME

File: B-228368

Date: October 27, 1987

### DIGEST

Protest based upon alleged apparent improprieties which are subsequently incorporated into solicitation by amendment filed with the agency after the date and time set for the receipt of best and final offers is untimely. Since the protest was not initially timely protested to the procuring agency, later protest to the General Accounting Office is untimely.

### DECISION

Teledyne CME protests the inclusion of certain provisions in request for proposals (RFP) No. N00123-87-R-0544, issued by the Naval Regional Contracting Center, Long Beach California. Specifically, Teledyne protests the delivery schedule, the addition of certain quantities and a liquidated damages clause which were incorporated into the RFP after receipt of initial proposals, but prior to the closing date for receipt of best and final offers. We dismiss the protest on grounds that it was untimely filed.

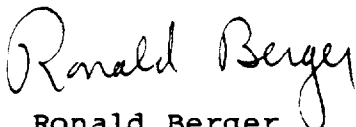
The solicitation as amended called for the submission of best and final offers by 3:00 p.m. local time which was Pacific Time, September 23, 1987. By telegram, Teledyne filed a protest with the contracting office at 6:07 p.m. Eastern Time (3:07 p.m. Pacific Time).

Our Bid Protest Regulations, 4 C.F.R. § 21.2(a) (1987), provide that to be timely protests based upon alleged improprieties apparent on the face of a solicitation must be filed with the agency or this Office not later than the closing date for receipt of proposals; protests that are based on alleged improprieties incorporated into the solicitation by amendment must be filed before the next closing date for receipt of proposals. In our opinion, all

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of the allegations raised by Teledyne concern improprieties which were apparent on the face of this solicitation before the closing date for receipt of best and final offers. Accordingly, Teledyne was required to file its protest either with the contracting agency or our Office prior to 3:00 p.m. September 23, 1987, but did not do so. Where, as here, a protest is first filed with the contracting agency, a subsequent protest to our Office will be considered timely only if the initial agency protest is timely. 4 C.F.R. 21.2(a)(3). Since Teledyne's protest to the agency was untimely, its subsequent protest will not be considered. Arctic Energies Ltd., B-224672, Nov. 17, 1986, 86-2 CPD ¶ 571.

The protest is dismissed.

  
Ronald Berger  
Deputy Associate  
General Counsel