



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Haemonetics Corporation

File: B-229595

Date: November 20, 1987

DIGEST

1. Protest that a certain model specified in the solicitation otherwise fails to meet the solicitation's specifications must be filed prior to the initial closing date for receipt of proposals.
2. Protest submitted with a proposal is untimely when based upon alleged improprieties in the solicitation which were apparent prior to the closing for receipt of proposals.

DECISION

Haemonetics Corporation protests the award of a contract to Cobe Laboratories (Cobe) under request for proposals No. N00140-87-R-1478 issued by the Department of the Navy for a blood cell processor. Haemonetics contends that Cobe's offered blood cell processor, model 2991, does not fulfill certain requirements of the solicitation's specifications.

The protester's submission indicates that the specifications listed Cobe's model 2991 as an acceptable equivalent to Haemonetic's Cell Saver 4 blood cell processor. Since the solicitation clearly authorized the agency to accept the 2991, the protest that the 2991 otherwise failed to meet certain specification requirements involves the propriety of the solicitation.

Our Bid Protest Regulations state that a protest based upon alleged solicitation improprieties apparent before the closing date for receipt of initial proposals must be filed with our Office or the contracting agency before the closing date for receipt of proposals. 4 C.F.R. § 21.2(a)(1) (1987). Although Haemonetics contends it submitted a protest to the Navy with its proposal, such a protest is not timely because it was not submitted "prior" to the closing

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date for proposals as required by our Bid Protest Regulations. Fluid Systems, Inc., B-225880, Jan. 6, 1987, 87-1 C.P.D. ¶ 20; Litton Datamedix, B-219731, Sept. 23, 1985, 85-2 C.P.D. ¶ 322. Haemonetics' protest to our Office was untimely as well since it was filed after the award. See Charles A. Martin & Associates--Reconsideration, B-222804.2, May 15, 1986, 86-1 C.P.D. ¶ 466.

The protest is dismissed.

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for Robert M. Strong
Deputy Associate
General Counsel