



**The Comptroller General  
of the United States**

Washington, D.C. 20548

Bucy

## **Decision**

Matter of: CooperVision, Inc.

File: B-231745

Date: July 1, 1988

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### **DIGEST**

1. Protest that solicitation specifications were too restrictive is untimely because it was filed after the date set for receipt of initial proposals.
2. Offer that does not conform to the material terms and conditions of the solicitation properly was rejected as unacceptable.

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### **DECISION**

CooperVision, Inc., protests the rejection of its offer under request for proposals (RFP) No. F11623-88-R-0010, issued by the Department of the Air Force for a laser system. The Air Force rejected the offer because the specifications required 208 volt, 48 amp, triple phase wiring, whereas the CooperVision specifications were 220 volt, 50 amp, single phase wiring. The protester contends that the specifications were too restrictive, and that if its system needed modification it would provide it at its own expense.


CooperVision's protest of the specifications is untimely since the basis for protest should have been apparent to CooperVision from reading the RFP. Under our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (1988), a protest based upon alleged improprieties in a solicitation which are apparent prior to the closing date for receipt of initial proposals must be filed before then. Here, the closing date was March 17, 1988, but we received CooperVision's protest on June 17. As the protest of this issue is untimely, we will not consider it on the merits.

Moreover, we have no legal basis to object to the rejection of CooperVision's offer, since the firm offered a product that did not conform with the electrical specifications of the RFP. It is our understanding that there is a material difference between the single phase wiring offered by

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CooperVision and the triple phase wiring required by the terms of the solicitation. In a negotiated procurement, a proposal that fails to conform to material terms and conditions of the solicitation is unacceptable and therefore may not form the basis for an award. Consolidated Bell, Inc., B-227894, Sept. 23, 1987, 87-2 CPD ¶ 292.

The protest is dismissed.

  
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Deputy Associate  
General Counsel