



**The Comptroller General  
of the United States**

Washington, D.C. 20548

# Decision

**Matter of:** Helitune, Inc.

**File:** B-235527

**Date:** June 23, 1989

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## DIGEST

Protest challenging amendments incorporating revisions to the solicitation must be filed no later than the next closing date after the incorporation of the revisions.

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## DECISION

Helitune, Inc., protests various amendments under request for proposals (RFP) No. N68860-88-R-0006, issued by the Department of the Navy for vibration analysis test sets (VATS), used for testing helicopters.

Based on the protester's initial submissions, we dismiss the protest.

The RFP, issued in January 1988, requested that offerors submit proposals with prices for four VATS, four operation, maintenance, and calibration manuals, and field services. The RFP further provided that award would be made to a single offeror for all items.

Between February 1988 and February 1989, the initial RFP was amended 6 times to revise the specifications or other solicitation terms. Amendment No. 0003, for example, issued in July 1988, requested that offerors submit proposals by August 2, 1988, and revised the price schedule. The amendment also changed the award language to provide that the government would make a single award to the responsive offeror whose total offer on all items was the most advantageous to the government.

Helitune acknowledged all amendments and submitted timely revised offers where required by the amendments. Discussions were conducted, and in response to the Navy's request for best and final offers (BAFOs) by closing on April 21, 1989, Helitune submitted a timely BAFO. The Navy informed Helitune by letter dated May 3, and received on

May 8, that it had awarded the contract to Dynamic Instruments. This protest followed on May 15.


Helitune essentially protests that the various amendments were issued in order to delay and "steer" the procurement process in favor of the awardee. Helitune protests, for example, the amended award language in Amendment No. 0003, as favoring the awardee by eliminating Helitune's technical competitive advantage. We find that Helitune's protest was not timely filed with our Office.

Our Bid Protest Regulations provide that a protest based upon alleged improprieties in a solicitation which are apparent prior to the closing date for receipt of proposals must be filed prior to the time set for receipt of proposals. 4 C.F.R. § 21.2(a)(1) (1988). Alleged improprieties which do not exist in the solicitation as issued initially, but which are subsequently incorporated into the solicitation, must be protested no later than the next closing date for receipt of proposals following the incorporation. See 120 Church Street Associates--Reconsideration, B-232139.4, May 23, 1989, 89-1 CPD ¶ \_\_\_; Interstate Diesel Services, Inc., B-232668.2, Oct. 28, 1988, 88-2 CPD ¶ 408.

Helitune's arguments basically challenge the propriety of the amendments and concern solicitation improprieties incorporated into the solicitation after the solicitation was issued. In these circumstances, this protest should have been filed no later than the next closing date after issuance of each amendment to which Helitune objects. Helitune, however, did not protest to our Office until after the contract had been awarded to Dynamic Instruments. Therefore, the protest is untimely and not for consideration on the merits. 4 C.F.R. § 21.2(a)(1).

Finally, to the extent Helitune contends that the award to Dynamic Instruments, based solely on its low technically acceptable offer, was improper, we note that the award was consistent with the RFP award language which clearly permitted award to the low technically acceptable offeror.

The protest is dismissed.

  
Ronald Berger  
Associate General Counsel