

**DECISION**

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

Official  
31832

**FILE:** B-218607

**DATE:** August 1, 1985

**MATTER OF:** ERA Helicopters, Inc.

**DIGEST:**

1. Bids must be evaluated on the same basis on which they were invited.
2. Protest against an invitation's stated evaluation method is untimely where filed after bid opening.

ERA Helicopters, Inc. (ERA), protests the Department of Health and Human Services' award of a contract for medical air transportation services to Peninsula Airways, Inc., under invitation for bids (IFB) No. 243-IFB-85-0046. ERA argues that instead of evaluating bids on a price per flight hour basis, which established Peninsula Airways as the low bidder, the agency should have evaluated bids by considering the speed of the offered airplanes. ERA states that it would be the low bidder under such an evaluation. ERA further argues that the solicitation should be declared defective if bids cannot be evaluated on the basis proposed. We deny the protest in part and dismiss it in part.

The solicitation permitted a bidder to offer, on an "on call" rental basis, the use of either twin engine turbine or turbo prop aircraft. The solicitation called for a bid of a "dry" hourly rate (i.e., excluding fuel charges) for the airplane, flight crew, and required equipment and maintenance, and an hourly rate for registered nurse service. The contractor was to be reimbursed separately for fuel actually used. Peninsula Airways' bid was \$66,750 while ERA's was \$83,000, based on the IFB estimate of 100 hours of flight time and 50 hours of medical assistance. ERA protests that because the jets it offered fly faster than the planes the awardee offered, its bid actually represents a lower cost to the government, and that it therefore should have received the award.

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There is no legal merit to the protest. Bids must be evaluated, and a contract awarded, on the same basis on which the bids were invited. J. F. Pitre Cleaning Corp., B-208032, July 27, 1982, 82-2 C.P.D. ¶ 85. The solicitation invited bids of a price per hour only, and clearly indicated that bids would be evaluated for award on that basis. Since Peninsula Airways' price per hour bid was the lowest one received, the firm was entitled to the award.

ERA's protest that the solicitation should be declared defective because it did not establish that bids will be evaluated on a basis that included consideration of airplane speed is untimely. Our Bid Protest Regulations require that an allegation of an impropriety that is clear from the invitation as issued be filed before the bid opening date. 4 C.F.R. § 21.2(a)(1) (1985). The purpose of that requirement is to insure that the matter can be reviewed, and the IFB amended if warranted, before the bidders' prices are exposed. Dynamics Research Corp., B-213273, Dec. 28, 1983, 84-1 C.P.D. ¶ 33. ERA did not raise the issue, however, until after bid opening.

The protest against the evaluation and award is denied, and the protest against the IFB's stated evaluation method is dismissed.

for *Ronald Berger*  
 Harry R. Van Cleve  
 General Counsel