

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

FILE: B-184634

DATE: November 3, 1975

MATTER OF: Rescom Incorporated

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DIGEST:

1. Decision not to consider protest filed after 10 working days from date of publication of bases of protest in Commerce Business Daily (CBD) as untimely, confirmed on reconsideration since publication in CBD constitutes notice to all concerned.
2. Untimely protest which was not originally considered will not be considered under request for reconsideration under section 20.2(c) of our Bid Protest Procedures (40 Fed. Reg. 17979 (1975)), since matter does not involve a significant principle of wide-spread procurement interest.

Rescom Incorporated (Rescom) has requested reconsideration of our decision of September 10, 1975, which declined to consider the merits of its protest as it was determined not to be timely filed in our Office.

The major basis for protest was whether the bid of Blatz Company (Blatz) came within the statutory cost limitation provided in the solicitation issued by the Department of the Army. Our decision of September 10, 1975, held that the basis for protest was known or should have been known, at the latest, when award of the contract to Blatz was synopsized in the Commerce Business Daily (hereinafter cited as CBD) on June 27, 1975. Since the protest of Rescom was not filed (received) in our Office until July 29, 1975, we found the protest to be untimely. 40 Fed. Reg. 17979 (1975).

Rescom questions our reliance on the publication in the CBD as giving constructive notice, contending, it to be unreasonable to expect every bidder to subscribe to the CBD and rely on it for advice as to action on its bid.

It should be noted that the Army sent Rescom notice of award to Blatz on June 20, 1975. However, since the record failed to indicate when Rescom received the letter we determined that the basis for the protest should have been known to the protester when award was published in the CBD. In support of this position we relied upon our decision of Del Norte Technology, B-182318, January 27, 1975, 75-1 CPD 53 cited in our decision of September 10, 1975, which stated:

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"In reaching this conclusion we note that it is the statutory duty of the Secretary of Commerce to publicize procurement information in the Commerce Business Daily. 15 U.S.C. 637(e) (1970). Moreover, information relevant to procurement and contract awards generally is required by regulation to be synopsized and forwarded for publication on a daily basis. See Armed Services Procurement Regulation 1-1005.1(a) and (b) (1974 ed.). Therefore, we regard publication of award information in the Commerce Business Daily as constituting notice of such information to all concerned.* * *"

There has been no showing that this conclusion is legally defective.

Alternatively, Rescom requests reconsideration under section 20.2(c) of our Bid Protest Procedures which provides:

"(c) The Comptroller General, for good cause shown, or where he determines that a protest raises issues significant to procurement practices or procedures, may consider any protest which is not filed timely." 40 Fed. Reg. 17979 (1975).

We have held that this exception to the timeliness rule has reference to the presence of a principle of widespread procurement interest. 52 Comp. Gen. 20 (1972). In our opinion Rescom's protest does not contain the requisite level of widespread procurement interest; nor is it significant to procurement practices or procedures.

Accordingly, our decision of September 10, 1975, is affirmed.


Deputy Comptroller General
of the United States