

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

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FILE: B-184922

DATE: November 12, 1975

MATTER OF: Save Our Aerospace Program, Inc. - request for  
reconsideration**DIGEST:**

Decision that protest filed more than 10 days after basis of protest was known to protester is untimely is affirmed on reconsideration since protester is deemed to be on constructive notice of Bid Protest Procedures because they were published in Federal Register, and failure of contracting agency officials to inform protester of time limits is not sufficient justification to consider otherwise untimely protest as such basis is not one of stated exceptions to timeliness rule.

Save Our Aerospace Program, Inc. (SOAP), requests our Office to reconsider our decision of September 30, 1975. In that decision we concluded that the SOAP protest against the award of a contract to ILC Industries by the National Aeronautics and Space Administration (NASA) was untimely filed under our Bid Protest Procedures (4 C.F.R. § 20 (1975 ed.)) and would not be considered on its merits.

SOAP maintains that the protest was timely filed. SOAP states that the NASA personnel who conducted the August 5, 1975, debriefing (which is the date on which SOAP learned the basis for its protest) never communicated to SOAP that there were any time limits within which a protest must be filed. Further SOAP states that on two different occasions within two weeks of the debriefing the contracting officer, in response to inquiries by SOAP, indicated that there was no time limit applicable to the lodging of protests. Finally, SOAP reports that it had a meeting with NASA personnel on September 24, 1975. During the course of that meeting the reasons why SOAP had not received the protested contract were iterated and SOAP was informed that it could protest the procurement to GAO. Thus, SOAP maintains that the 10-day time should not have started to run until the September 24, 1975, meeting was held, in which case its protest would be timely.

While it is unfortunate that SOAP was unaware of our Bid Protest Procedures and their time constraints, this lack of knowledge is not sufficient justification for considering an otherwise untimely protest. Dewitt Transfer and Storage Company, B-180039, January 31, 1974, 74-1 CPD 47. Moreover, since our Bid Protest Procedures were

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published in Volume 40, page 17979, of the Federal Register, we must regard SOAP as being on constructive notice of its contents. Lance Investigation Service, Incorporated, B-180481, April 5, 1974, 74-1 CPD 177.

As for the suggestion that the basis of protest was not known to SOAP until after the September 24, 1975, meeting, section 20.2 (b)(2) of our Bid Protest Procedures requires that a protest must be filed not later than 10 days after the basis for protest is known or should have been known, whichever is earlier. SOAP does not maintain that it was unaware of the reasons that prompted its protest after the August 5 debriefing, but only that it was unaware of the procedures by which a protest could be lodged. Concerning the statements attributed to the various NASA personnel, we note that there are no time requirements in which a protest must be filed in the NASA procurement regulations. We are unable to discern from the protester's letter if the NASA personnel were referring to the NASA regulations or GAO's Bid Protest Procedures. Even assuming that the NASA officials were unaware of the time limits in our procedures, this does not provide justification to consider an otherwise untimely protest under either exception stated at section 20.2(c) of our Bid Protest Procedures. That is, the issues raised are not significant to procurement practices or procedures and it has not been alleged that good cause prevented the filing of a protest timely.

Consequently, our decision of September 30, 1975, is affirmed.

  
Deputy Comptroller General  
of the United States