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DECISION



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

FILE: B-187183

DATE: January 14, 1977

MATTER OF: R. A. Miller Industries, Inc. (Reconsideration)

DIGEST:

Prior decision dismissing protest as untimely is affirmed since timeliness provisions are not mere "technicalities" but provide basis for expeditious consideration of protests without unduly burdening Government procurements.

R. A. Miller Industries, Inc. (Miller) has requested reconsideration of our decision R. A. Miller Industries, Inc., B-187183, November 18, 1976, 76-2 CPD 420, dismissing as untimely its protest against the proposed award of a contract to J. & H. Smith Mfg. Co., Inc. (Smith) under request for proposals (RFP) No. DSA900-76-R-2044, issued by the Defense Supply Agency (DSA), Defense Electronics Supply Center, Dayton, Ohio.

The solicitation was issued May 13, 1976, with a closing date for the receipt of initial proposals of June 3, 1976. It was not until August 13, 1976, that Miller protested to this Office. Because Miller's protest concerned an alleged impropriety (restrictive provision) in the solicitation which was apparent prior to the closing date for receipt of initial proposals, we viewed it as untimely in accordance with section 20.2(b)(1) of our Bid Protest Procedures, 4 C.F.R. §20.2(b)(1) (1976), which states in pertinent part:

"Protests based upon alleged improprieties in any type of solicitation which are apparent prior to bid opening or the closing date for receipt of initial proposals shall be filed prior to bid opening or the closing date for receipt of initial proposals. In the case of negotiated procurements, alleged improprieties which do not exist in the initial solicitation but which are subsequently incorporated therein must be protested not later than the next closing date for receipt of proposals following the incorporation."

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Miller now states that its protest was denied "strict" based on a technicality" and argues that this Office should consider the matter so that the Government can save in excess of \$200,000 which in Miller's view is being expended unnecessarily as a result of the alleged impropriety.

We do not regard the time limits for filing protests as mere technicalities. Their purpose is to assure that Government procurements are not burdened by untimely protests. Del Norte Technology, Inc., B-182318, January 27, 1975, 75-1 CPD 53. As we recently stated:

"To raise a legal objection to the award of a Government contract is a serious matter. At stake are not only the rights and interests of the protester, but those of the contracting agency and other interested parties. Effective and equitable procedural standards are necessary so that parties have a fair opportunity to present their cases and protests can be resolved in a reasonably speedy manner. The timeliness rules are intended to provide for expeditious consideration of objections to procurement actions without unduly burdening and delaying the procurement process. See Cessna Aircraft Company; Beech Aircraft Corporation, 54 Comp. Gen. 97 (1974), 74-2 CPD 91. Service Distributors, Inc. (Reconsideration), B-183495, August 10, 1976, 76-2 CPD 149.

Our Bid Protest Procedures do permit consideration of untimely protests where good cause is shown or where issues significant to procurement practices or procedures are raised. 4 C.F.R. §20.2(c). The good cause exception generally refers to some compelling reason, beyond the protester's control, which prevented it from filing a timely protest. 52 Comp. Gen. 20, 23 (1972); Power Conversion, Inc., B-186719, September 30, 1976, 76-2 CPD 256. The significant issue exception is limited to issues which are of widespread interest to the procurement community and is "exercised sparingly" so that the timeliness

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standards do not become meaningless. See Catalytic, Incorporated, B-187444, November 23, 1978, 78-2 CPD 445. We see nothing in the submissions in this case to warrant invoking either exception.

In view of the foregoing, our prior decision is affirmed.

Deputy

R. J. K. 1/1/79
Comptroller General
of the United States