

DECISION

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

FILE: B-209440.2**DATE:** March 1, 1983**MATTER OF:** Glatzer Industries Corp.--
Reconsideration**DIGEST:**

1. Protest alleging defects apparent on the face of a solicitation which is filed with a proposal does not constitute a timely protest to the contracting agency.
2. Argument that the contracting officer's representations and actions led protester to believe that it need not comply strictly with our bid protest timeliness requirements is rejected. GAO Bid Protest Procedures provide objective criteria for application by our Office to all protests before us and may not be waived by the actions or representations of a contracting officer.

Glatzer Industries Corp. (Glatzer) requests reconsideration of our decision, Glatzer Industries Corp., B-209440, November 12, 1982, 82-2 CPD 437, in which we dismissed as untimely Glatzer's protest under request for proposals No. 5-93970/429 issued by the National Aeronautics and Space Administration (NASA). We found that two of Glatzer's protest allegations relating to alleged apparent solicitation improprieties were untimely because the protest was not filed until after the closing date for the receipt of initial proposals, and that the other two protest allegations were untimely because they were filed more than 10 days after the date that the basis for protest was known.

Glatzer now asserts that it raised its protest concerning the solicitation improprieties in its initial proposal to NASA and stated that it would be willing to negotiate any aspect of its proposal, but that NASA

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failed to respond and, instead, found its proposal outside the competitive range. Glatzer alleges that at a debriefing conference which was subsequently held on September 16, 1982, the contracting officer advised that he would investigate Glatzer's protest allegations and would advise Glatzer of his ruling on September 21, 1982. Glatzer contends that the contracting officer also advised that it would have 10 days from the date of the ruling in which to mail its protest to our Office, and that it relied on this representation. Accordingly, Glatzer argues that it is unjust and erroneous for our Office to dismiss its protest as untimely.

It is well settled that a "protest" alleging defects which are apparent on the face of a solicitation which is filed with a bid or included in a proposal will not be considered timely. Precision Dynamics Corporation, B-207823, July 9, 1982, 82-2 CPD 35. Thus, Glatzer's protest regarding the specification defects was clearly untimely, even if it was raised in Glatzer's proposal.

A NASA letter of August 24, 1982, advising Glatzer that its proposal had been found technically acceptable, but not within the competitive range because of price, and the September 16, 1982, debriefing provided the bases for Glatzer's other protest allegations. Assuming Glatzer timely protested to the agency at the September 16 debriefing and that it received the agency denial on September 21, 1982, its protest, which was not filed (received) in our Office until more than 10 days later on October 8, 1982, is clearly untimely. Under our Bid Protest Procedures, 4 C.F.R. § 21.2(a), (1982), such a protest must be filed within 10 working days of notification of adverse agency action.

Glatzer's allegation that its delay in protesting was the result of actions or representations by the contracting officer does not excuse Glatzer from compliance with our bid protest timeliness requirements. Our Bid Protest Procedures provide objective criteria for application by our Office to all protests before us and may not be waived by the actions or representations of a contracting officer. Owl Technical Associates, Inc.--Reconsideration, B-206753.2, October 29, 1982, 82-2 CPD 382; Demlar Medical, Inc., B-204317, January 26, 1982, 82-1 CPD 56.

We affirm our prior decision.

for *Milton J. Fowler*
Comptroller General
of the United States