

DECISION

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

FILE: B-209609

DATE: March 10, 1983

MATTER OF: Morrison-Knudsen Company

DIGEST:

GAO will dismiss protest against sole-source solicitation and award filed more than 10 working days after protester learns that agency intends to make such an award, since protest is untimely.

The Power Systems Division of the Morrison-Knudsen Company protests the Air Force's award of a sole-source contract to Solar Turbines, Inc. We dismiss the protest as untimely.

On June 25, 1982, the Sacramento Air Logistics Center, McClellan Air Force Base, California, issued a sole-source solicitation for a number of 750-kilowatt gas turbine generator sets to Solar. Morrison-Knudsen, believing that it could meet the specifications, submitted an unsolicited proposal for the generator sets to the Air Force in July, and on September 9, 1982, representatives of the firm met with Air Force personnel at McClellan to discuss the proposal. (According to the Air Force, the purpose of the meeting was to explain to Morrison-Knudsen the need for a sole-source award.)

The Air Force awarded the protested contract on September 30, 1982, and indicates that it informed Morrison-Knudsen of the fact on October 1, 1982, when the firm called to determine the status of the procurement. Morrison-Knudsen admits that it was advised on that date that an award "had been or was about to be made to Solar." On October 11, 1982, the protester states, it submitted a written request for information on the exact status of the contract; the Air Force responded on October 19, 1982, and Morrison-Knudsen then sent a letter of protest, received at our Office on October 25, 1982.

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Our Bid Protest Procedures, 4 C.F.R. § 21.2 (1982), require that protests be filed not later than 10 working days after the basis for them is known or should have been known, whichever is earlier. The basis of this protest is that Morrison-Knudsen was improperly excluded from competing for the contract. Therefore, once Morrison-Knudsen knew that the Air Force was negotiating on a sole-source basis with Solar and that its own proposal was not under consideration, it was required to protest within 10 working days. It appears that Morrison-Knudsen was aware of the situation after meeting with the Air Force on September 9, 1982; at the very latest, the firm became aware of the basis for its protest on October 1, 1982, when the Air Force advised it that the award had been made or would be made to Solar. Although Morrison-Knudsen argues that its protest is timely because the Air Force never voluntarily notified it of the award, written verification would have added nothing to the firm's knowledge, and its October 25, 1982, protest therefore is clearly untimely.

Morrison-Knudsen contends that even if its protest is found untimely, it should still be considered under the good cause exception to our procedures or because it raises issues significant to procurement practices. Under section 21.2(c) of our procedures, this Office upon occasion considers untimely cases for good cause or because the issues raised are significant; however, neither exception applies to this protest.

The good cause exception is limited to circumstances where some compelling reason beyond the protester's control prevents the filing of timely protests. Pacific Drilling, Inc., B-205542, May 11, 1982, 82-1 CPD 454. Morrison-Knudsen does not allege such circumstances here.

The significant issues exception is limited to issues of widespread interest in the procurement community and is exercised sparingly so that our timeliness standards do not become meaningless. A/C Pipe, Inc.--Reconsideration, B-204530.2, November 4, 1981, 81-2 CPD 386. Where the merits of a protest involve issues which we have previously considered,

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the issues are not significant. Id. The propriety of sole-source procurements has been the subject of many of our decisions. See, e.g., Diversified Computer Consultants, B-205820, July 13, 1982, 82-2 CPD 47; Bird Electronics Corporation, B-205155, June 2, 1982, 82-1 CPD 519. The Air Force's award in this case, therefore, does not justify an exception to our timeliness requirements.

The protest is dismissed.

Harry R. Van Cleve
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Acting General Counsel