

DECISION

26877
**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-210877.3**DATE:** November 18, 1983**MATTER OF:** The Torrington Company--
Reconsideration**DIGEST:**

Prior decision which held untimely protest based on agency's failure to give protester an opportunity to submit a revised offer on a newly qualified item is affirmed. Further, issue does not fall within significant issue exception to our timeliness rules because it has been previously considered by our Office.

The Torrington Company (Torrington) requests reconsideration of our decision in Torrington Company, a division of Ingersoll-Rand Company, B-210877, B-210877.2, September 2, 1983, 83-2 CPD 298. Our decision dismissed, as untimely, Torrington's allegation that it was treated unfairly because it was not given an opportunity to submit a revised offer on a newly qualified item. We found this issue untimely raised because the basis therefor was known on March 22 and not filed with our Office until April 11. Torrington argues that it raised the issue in earlier submissions to our Office. Also, Torrington contends that even if its protest is untimely, it should be considered under our "significant issue" exception, 4 C.F.R. § 21.2(c) (1983).

Under our Bid Protest Procedures, 4 C.F.R. § 21.2(b)(2) (1983), protests must be filed not later than 10 days after the basis for the protest is known or should have been known. Our decision found that Torrington learned that the Air Force was accepting an item which was not identical to that specified in the RFP on March 22, 1983, following a telephone conversation with various Air Force personnel. Torrington forwarded a memo memorializing this conversation to our Office by letter of April 6, 1983, which we received on April 11, 1983. Although Torrington contends that it raised this issue in its original telex of February 22, 1983, and its letter dated February 23, 1983, our review of both those submissions indicates that this is not the case; nor does Torrington specifically indicate where in those submissions this issue was raised. Accordingly, we remain of the view that Torrington's protest on this issue is untimely and will not be considered on the merits.

027273

With respect to Torrington's contention that our Office should consider this protest ground under our significant issue exception, we stated in Sequoia Pacific Corporation, B-199583, January 7, 1981, 81-1 CPD 13, that:

"In order to invoke the significant issue exception to our timeliness rules, the subject matter of the protest must not only evidence a matter of widespread interest or importance to the procurement community, see e.g., Willamette Western Corporation; Pacific Towboat and Salvage Co., 54 Comp. Gen. 375 (1974), 74-2 CPD 259, but must also involve a matter which has not been considered on the merits in previous decisions. CSA Reporting Corporation, 59 Comp. Gen. 338 (1980), 80-1 CPD 225; Wyatt Lumber Company, B-196785, February 7, 1980, 80-1 CPD 108; Garrison Construction Company, Inc., B-196959, February 26, 1980, 80-1 CPD 159."

This exception to our timeliness rules is strictly construed and sparingly used to prevent our timeliness rules from being rendered meaningless. The protest here does not fall within the exception. The failure of a firm to be given an opportunity to submit a revised offer on a newly qualified "equivalent" item has been considered previously by our Office. See Pace Incorporated, B-193877, December 31, 1979, 80-1 CPD 2.

Finally, we note that Torrington has requested a conference in connection with its request for reconsideration. We believe that a conference should be granted in connection with a request for reconsideration only where the matter cannot be resolved without one. In light of our findings above, a conference would serve no useful purpose. Lea-Land Service, Inc.--Reconsideration, B-208690.3, April 13, 1983, 83-1 CPD 393.

Our prior decision is affirmed.

for *Harry R. Van Cleave*
Comptroller General
of the United States