

DECISION

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

*R.L. 1
Chalpin*

28005

FILE: B-214427.2

DATE: April 17, 1984

MATTER OF: Western States Management Services, Inc.--
Request for Reconsideration

DIGEST:

1. Protest concerning the rejection of a bid as unreasonably low filed with GAO more than 10 working days after the protester received written notice from the agency of the basis for rejection of its bid is untimely and not for consideration on the merits. For protests filed with GAO, the term "filed" means receipt in GAO.
2. GAO will not consider an untimely protest under the exception to GAO's timeliness rules for significant issues where the protest does not raise issues of widespread interest or importance to the procurement community which have not been considered on the merits in previous decisions.

Western States Management Services, Inc. (Western), requests reconsideration of our decision, Western States Management Services, Inc., B-214427, March 13, 1984, 84-1 CPD ___, dismissing as untimely the rejection of its bid as unreasonably low under solicitation No. F07603-83-B-0052 issued by the Air Force. We dismissed the protest because Western did not file it within 10 working days after knowing of the rejection of its bid, as required by our Bid Protest Procedures, 4 C.F.R. § 21.2(b)(2) (1983).

We affirm our prior decision.

Western now asserts that its protest was timely because it did not know of the rejection of its bid until January 30, 1984, not January 24, 1984, as stated in our prior decision. Specifically, Western alleges that, while the Air Force's notice of the rejection of Western's bid is dated January 24, and Western inadvertently stated in its original protest that it received this notice on that date, Western, in fact, did not receive this notice until January 30, as evidenced by its date stamp on the letter.

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Further, Western argues that it transmitted its protest to our Office on February 11, 1984, within 10 working days of receiving notice of the rejection of its bid.

However, even assuming that Western did not know its basis for protest until January 30, the protest is untimely. Our Bid Protest Procedures require that a protest must be filed within 10 working days after the basis for protest is known or should be known. 4 C.F.R. § 21.2(b)(2) (1983). For protests filed with us, the term "filed" means receipt in our Office. Canaveral Towing & Salvage, Inc., B-211627.2, B-211627.5, B-211627.6, December 19, 1983, 83-2 CPD 702. Western's protest was received by our Office on February 17. Therefore, since Western's protest was filed with our Office more than 10 working days after January 30, it is not for consideration on the merits.

Western contends that even if untimely, its protest should be considered under the exception to our timeliness rules for significant issues. See 4 C.F.R. § 21.2(c). Western argues that a significant issue is raised by the agency's failure to advise Western, as a small business, within a reasonable period prior to award that its ability to perform the contract at the bid price submitted is in question so that Western would have had time to apply to the Small Business Administration (SBA) for a certificate of competency (COC) pursuant to 15 U.S.C. § 637(b)(7) (1982).

However, we will review an untimely protest under this exception only where the protest involves a matter of widespread interest or importance to the procurement community which has not been considered on the merits in previous decisions. Northrop Worldwide Aircraft Services, Inc., B-212257.2, December 7, 1983, 83-2 CPD 655. We have considered numerous protests concerning an agency's failure to refer the matter of a small business bidder's responsibility to the SBA for consideration in connection with its COC procedures, see, e.g., Metal Services Center, B-206972, January 18, 1983, 83-1 CPD 58. Consequently, we will not review this untimely protest under our exception for significant issues.

Our prior decision is affirmed.

Milton J. Aronson
for Comptroller General
of the United States